

**Maine Revised Statutes**  
**Title 31: PARTNERSHIPS AND ASSOCIATIONS**

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# **Title 31: PARTNERSHIPS AND ASSOCIATIONS**

## **Chapter 1: MERCANTILE PARTNERSHIPS AND ASSUMED BUSINESS NAMES**

### **§1. FILING OF CERTIFICATE; CERTIFICATE OF WITHDRAWAL**

Whenever 2 or more persons become associated as partners or otherwise for the purpose of engaging in any mercantile enterprise, they shall, before commencing business, deposit in the office of the clerk of the city or town in which the same is to be carried on a certificate signed and sworn to by them, setting forth their names and places of residence, the nature of the business in which they intend to engage and giving the name under which they are to transact business. Whenever any member of such partnership or association withdraws therefrom, he may certify under oath to the fact of such withdrawal, which certificate shall be deposited in the clerk's office where the partnership certificate is recorded. He shall conclusively be presumed to be a member of the firm or association to the time of his depositing such certificate.

### **§2. BUSINESS UNDER ASSUMED NAME; FILING OF CERTIFICATE**

Whenever any person intends to engage in such business as sole proprietor thereof, and to adopt any business name, style or designation other than his own name exclusively, he shall, before commencing business, deposit in the office of the clerk of the city or town in which such business is to be carried on a certificate signed and sworn to by him, setting forth his name and place of residence, the name, style or designation under which the business is to be conducted, and stating that he is the sole proprietor.

### **§3. STATEMENTS AS CONCLUSIVE; PERJURY**

A person signing and making oath to any certificate deposited as provided by sections 1 and 2 shall not be permitted in any judicial proceeding to contradict the statements contained in such certificate. Whoever swears or affirms to any such certificate which is not true in fact shall be deemed guilty of perjury.

### **§4. RECORDS**

The clerks of the several cities and towns shall record in suitable books, kept exclusively for the purpose, the certificates deposited under sections 1 and 2, and such books shall be open to public inspection.

### **§5. FAILURE TO FILE; PENALTY**

Whoever fails to deposit seasonably the certificate required by sections 1 and 2 shall be punished by a fine of \$5 for each day he is in default.

### **§6. PROHIBITION OF CERTAIN NAMES**

No person or persons, partnership or other entity engaged in any business, except a corporation, may adopt a name for such business that contains the words "corporation," "incorporated" or "limited," or any abbreviation of any such words. A limited partnership may use the term "limited partnership" as part of its name, a limited liability company may use the term "limited liability company" as part of its name and a limited liability partnership may use the term "limited liability partnership" as part of its name. [1995, c. 633, Pt. C, §10 (AMD).]

#### **SECTION HISTORY**

1967, c. 157, (NEW). 1981, c. 698, §153 (AMD). 1995, c. 458, §11 (AMD). 1995, c. 633, §C10 (AMD).

## §6-A. USE OF "PASSAMAQUODDY" PROHIBITED

A person or persons, partnership, corporation or other entity engaged in any business or activities may not adopt a name that contains the word "Passamaquoddy" or use the word "Passamaquoddy" in connection with goods manufactured or sold or services provided after December 31, 1993 without written authorization from the Passamaquoddy Tribe. [1993, c. 210, §1 (NEW); 1993, c. 210, §2 (AFF).]

**1. Extent of authorization.** Unless greater authority is expressly granted by the Passamaquoddy Tribe, no authorization extends to a business, activity, product or service not disclosed to the Passamaquoddy Tribe at the time of the request for authorization. Authorization is revocable unless by its terms it is irrevocable.

[ 1993, c. 210, §1 (NEW); 1993, c. 210, §2 (AFF) .]

**2. Deceptive trade practices.** Violation of this section is a deceptive trade practice and unlawful under Title 10, chapter 206.

[ 1993, c. 210, §1 (NEW); 1993, c. 210, §2 (AFF) .]

**3. Exemptions.** The following are exempted from the provisions of this section:

A. The use of the words "Passamaquoddy Bay":

- (1) As part of a trade name of an entity or sole proprietorship; or
- (2) In connection with goods manufactured or sold or services provided; and [1993, c. 210, §1 (NEW); 1993, c. 210, §2 (AFF).]

B. Use of the word "Passamaquoddy" by a person who was using it prior to the effective date of this Act:

- (1) As part of a specific trade name of an entity or sole proprietorship; or
- (2) In connection with specific goods or specific services provided.

The exemption in this paragraph does not extend to the use of the word "Passamaquoddy" as part of any trade name not in use prior to the effective date of this Act or in connection with any specific goods or services not being sold prior to the effective date of this Act. [1993, c. 210, §1 (NEW); 1993, c. 210, §2 (AFF).]

[ 1993, c. 210, §1 (NEW); 1993, c. 210, §2 (AFF) .]

### SECTION HISTORY

1993, c. 210, §1 (NEW). 1993, c. 210, §2 (AFF).

## §7. INAPPLICABLE TO CORPORATIONS, LIMITED PARTNERSHIPS OR LIMITED LIABILITY COMPANIES

Sections 1 and 2 do not apply to corporations, limited partnerships or limited liability companies. A corporation desiring to do business under an assumed name shall file a statement as provided in Title 13-C, section 404. A limited partnership desiring to do business under an assumed name shall file a statement as provided in section 1308, subsection 2. A limited liability company desiring to do business under an assumed name shall file a statement as provided in section 1510. [2009, c. 629, Pt. A, §3 (AFF); 2009, c. 629, Pt. B, §7 (AMD).]

### SECTION HISTORY

1971, c. 439, §15 (NEW). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B48 (COR). 2007, c. 535, Pt. A, §3 (AMD). 2007, c. 535, Pt. A, §7 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. B, §7 (AMD).

## Chapter 3: LIMITED PARTNERSHIPS

### §51.

*(REPEALED)*

SECTION HISTORY

1969, c. 324, §2 (RP).

### §52.

*(REPEALED)*

SECTION HISTORY

1969, c. 324, §2 (RP).

### §53.

*(REPEALED)*

SECTION HISTORY

1969, c. 324, §2 (RP).

### §54.

*(REPEALED)*

SECTION HISTORY

1969, c. 324, §2 (RP).

### §55.

*(REPEALED)*

SECTION HISTORY

1969, c. 324, §2 (RP).

### §56.

*(REPEALED)*

SECTION HISTORY

1969, c. 324, §2 (RP).

### §57.

*(REPEALED)*

SECTION HISTORY

1969, c. 324, §2 (RP).

### §58.

*(REPEALED)*

SECTION HISTORY

1969, c. 324, §2 (RP).

**§59.*****(REPEALED)***

## SECTION HISTORY

1969, c. 324, §2 (RP).

**§60.*****(REPEALED)***

## SECTION HISTORY

1969, c. 324, §2 (RP).



## Chapter 5: ESTATES OF DECEASED PARTNERS

### §101.

*(REPEALED)*

SECTION HISTORY

1973, c. 377, §4 (RP).

### §102.

*(REPEALED)*

SECTION HISTORY

1973, c. 377, §4 (RP).

### §103.

*(REPEALED)*

SECTION HISTORY

1973, c. 377, §4 (RP).

### §104.

*(REPEALED)*

SECTION HISTORY

1973, c. 377, §4 (RP).

### §105.

*(REPEALED)*

SECTION HISTORY

1973, c. 377, §4 (RP).

### §106.

*(REPEALED)*

SECTION HISTORY

1973, c. 377, §4 (RP).

### §107.

*(REPEALED)*

SECTION HISTORY

1973, c. 377, §4 (RP).

### §108.

*(REPEALED)*

SECTION HISTORY

1973, c. 377, §4 (RP).

## Chapter 7: UNIFORM LIMITED PARTNERSHIP ACT

### §151. LIMITED PARTNERSHIP DEFINED

*(REPEALED)*

#### SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

### §152. FORMATION

*(REPEALED)*

#### SECTION HISTORY

1969, c. 324, §1 (NEW). 1977, c. 319, §1 (AMD). 1983, c. 50, §5 (AMD). 1989, c. 501, §148 (AMD). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

### §153. BUSINESS WHICH MAY BE CARRIED ON

*(REPEALED)*

#### SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

### §154. CHARACTER OF LIMITED PARTNER'S CONTRIBUTION

*(REPEALED)*

#### SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

### §155. A NAME NOT TO CONTAIN SURNAME OF LIMITED PARTNER; EXCEPTIONS

*(REPEALED)*

#### SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

### §156. LIABILITY FOR FALSE STATEMENTS IN CERTIFICATE

*(REPEALED)*

#### SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

### §157. LIMITED PARTNER NOT LIABLE TO CREDITORS

*(REPEALED)*

#### SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

### §158. ADMISSION OF ADDITIONAL LIMITED PARTNERS

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§159. RIGHTS, POWERS AND LIABILITIES OF A GENERAL PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§160. RIGHTS OF A LIMITED PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§160-A. LIMITED PARTNERSHIP AS ENTITY**

*(REPEALED)*

## SECTION HISTORY

1987, c. 92, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§161. STATUS OF PERSON ERRONEOUSLY BELIEVING HIMSELF A LIMITED PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§162. ONE PERSON BOTH GENERAL AND LIMITED PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§163. LOANS AND OTHER BUSINESS TRANSACTIONS WITH LIMITED PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§164. RELATION OF LIMITED PARTNERS INTER SE**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§165. COMPENSATION OF LIMITED PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§166. WITHDRAWAL OR REDUCTION OF LIMITED PARTNER'S CONTRIBUTION**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§167. LIABILITY OF LIMITED PARTNER TO PARTNERSHIP**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§168. NATURE OF LIMITED PARTNER'S INTEREST IN PARTNERSHIP**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§169. ASSIGNMENT OF LIMITED PARTNER'S INTEREST**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§170. EFFECT OF RETIREMENT, DEATH OR INSANITY OF A GENERAL PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§171. DEATH OF LIMITED PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§172. RIGHTS OF CREDITORS OF LIMITED PARTNER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§173. DISTRIBUTION OF ASSETS**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§174. WHEN CERTIFICATE SHALL BE CANCELLED OR AMENDED**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§175. REQUIREMENTS FOR AMENDMENT AND FOR CANCELLATION OF CERTIFICATE**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1977, c. 319, §2 (AMD). 1989, c. 501, §L49 (AMD). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§176. PARTIES TO ACTIONS**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§177. NAME OF CHAPTER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§178. RULES OF CONSTRUCTION**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§179. RULES FOR CASES NOT PROVIDED FOR IN THIS CHAPTER**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§180. PROVISIONS FOR EXISTING LIMITED PARTNERSHIPS**

*(REPEALED)*

## SECTION HISTORY

1969, c. 324, §1 (NEW). 1973, c. 788, §152 (AMD). 1977, c. 78, §176 (AMD). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§181. LIMITED PARTNERSHIPS OF OTHER STATES*****(REPEALED)***

## SECTION HISTORY

1973, c. 365, (NEW). 1989, c. 501, §L50 (AMD). 1991, c. 552, §4 (AFF).  
1991, c. 552, §1 (RP).

**§182. EXPEDITED SERVICE*****(REPEALED)***

## SECTION HISTORY

1991, c. 465, §35 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§183. ACCESS TO SECRETARY OF STATE'S DATABASE*****(REPEALED)***

## SECTION HISTORY

1991, c. 465, §35 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

**§184. PUBLICATIONS*****(REPEALED)***

## SECTION HISTORY

1991, c. 465, §35 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 552, §1 (RP).

## Chapter 9: UNIFORM PARTNERSHIP ACT

### §281. NAME OF ACT

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### §282. DEFINITION OF TERMS

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 1995, c. 633, §A1 (AMD). 2003, c. 344, §D17 (AMD). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### §283. INTERPRETATION OF KNOWLEDGE AND NOTICE

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### §284. RULES OF CONSTRUCTION

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### §285. RULES FOR CASES NOT PROVIDED FOR IN THIS ACT

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### §286. PARTNERSHIP DEFINED

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 1977, c. 322, §2 (AMD). 1995, c. 633, §A2 (AMD). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### §287. RULES FOR DETERMINING THE EXISTENCE OF A PARTNERSHIP

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§288. PARTNERSHIP PROPERTY**

*(REPEALED)*

### SECTION HISTORY

1973, c. 377, §1 (NEW). 1989, c. 120, §1 (RPR). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§289. PARTNER AGENT OF PARTNERSHIP AS TO PARTNERSHIP BUSINESS**

*(REPEALED)*

### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§290. CONVEYANCE OF REAL PROPERTY OF THE PARTNERSHIP**

*(REPEALED)*

### SECTION HISTORY

1973, c. 377, §1 (NEW). 1989, c. 120, §2 (RPR). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§290-A. PARTNERSHIP AS ENTITY**

*(REPEALED)*

### SECTION HISTORY

1987, c. 92, §2 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§291. PARTNERSHIP BOUND BY ADMISSION OF PARTNER**

*(REPEALED)*

### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§292. PARTNERSHIP CHARGED WITH KNOWLEDGE OF OR NOTICE TO PARTNER**

*(REPEALED)*

### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§293. PARTNERSHIP BOUND BY PARTNER'S WRONGFUL ACT**

*(REPEALED)*

### SECTION HISTORY



1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§294. PARTNERSHIP BOUND BY PARTNER'S BREACH OF TRUST** ***(REPEALED)***

### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§295. NATURE OF PARTNER'S LIABILITY** ***(REPEALED)***

### SECTION HISTORY

1973, c. 377, §1 (NEW). 1995, c. 633, §A3 (RP).

## **§295-A. NATURE OF PARTNER'S LIABILITY** ***(REPEALED)***

### SECTION HISTORY

1995, c. 633, §A4 (NEW). RR 2001, c. 2, §C7 (AFF). RR 2001, c. 2, §C2 (COR). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§296. PARTNER BY ESTOPPEL** ***(REPEALED)***

### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§297. LIABILITY OF INCOMING PARTNER** ***(REPEALED)***

### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§298. RULES DETERMINING RIGHTS AND DUTIES OF PARTNERS** ***(REPEALED)***

### SECTION HISTORY

1973, c. 377, §1 (NEW). 1995, c. 633, §A5 (AMD). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## **§299. PARTNERSHIP BOOKS** ***(REPEALED)***

### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§300. DUTY OF PARTNERS TO RENDER INFORMATION*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§301. PARTNER ACCOUNTABLE AS A FIDUCIARY*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§302. RIGHT TO AN ACCOUNT*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§303. CONTINUATION OF PARTNERSHIP BEYOND FIXED TERM*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§304. EXTENT OF PROPERTY RIGHTS OF A PARTNER*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§305. NATURE OF A PARTNER'S RIGHT IN SPECIFIC PARTNERSHIP PROPERTY*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 1975, c. 412, (AMD). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§306. NATURE OF PARTNER'S INTEREST IN THE PARTNERSHIP*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§307. ASSIGNMENT OF PARTNER'S INTEREST*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§308. PARTNER'S INTEREST SUBJECT TO CHARGING ORDER*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§309. DISSOLUTION DEFINED*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§310. PARTNERSHIP NOT TERMINATED BY DISSOLUTION*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§311. CAUSES OF DISSOLUTION*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 1979, c. 127, §175 (AMD). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§312. DISSOLUTION BY DECREE OF COURT*****(REPEALED)***

## SECTION HISTORY

1973, c. 377, §1 (NEW). 1977, c. 696, §230 (RP).

**§312-A. DISSOLUTION BY DECREE OF COURT*****(REPEALED)***

## SECTION HISTORY

1977, c. 696, §231 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§313. GENERAL EFFECT OF DISSOLUTION ON AUTHORITY OF PARTNER**  
**(REPEALED)**

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§314. RIGHT OF PARTNER TO CONTRIBUTION FROM COPARTNERS AFTER DISSOLUTION**  
**(REPEALED)**

## SECTION HISTORY

1973, c. 377, §1 (NEW). 1995, c. 633, §§A6,7 (AMD). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§315. POWER OF PARTNER TO BIND PARTNERSHIP TO 3RD PERSONS AFTER DISSOLUTION**  
**(REPEALED)**

## SECTION HISTORY

1973, c. 377, §1 (NEW). 1977, c. 696, §232 (RP).

**§315-A. POWER OF PARTNER TO BIND PARTNERSHIP TO 3RD PERSONS AFTER DISSOLUTION**  
**(REPEALED)**

## SECTION HISTORY

1977, c. 696, §233 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§316. EFFECT OF DISSOLUTION ON PARTNER'S EXISTING LIABILITY**  
**(REPEALED)**

## SECTION HISTORY

1973, c. 377, §1 (NEW). 1995, c. 633, §A8 (AMD). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§317. RIGHT TO WIND UP**  
**(REPEALED)**

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

**§318. RIGHTS OF PARTNERS TO APPLICATION OF PARTNERSHIP PROPERTY**  
**(REPEALED)**

## SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### **§319. RIGHTS WHERE PARTNERSHIP IS DISSOLVED FOR FRAUD OR MISREPRESENTATION**

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### **§320. RULES FOR DISTRIBUTION**

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 1995, c. 633, §§A9,10 (AMD). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### **§321. LIABILITY OF PERSONS CONTINUING THE BUSINESS IN CERTAIN CASES**

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### **§322. RIGHTS OF RETIRING OR ESTATE OF DECEASED PARTNER WHEN THE BUSINESS IS CONTINUED**

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

### **§323. ACCRUAL OF ACTIONS**

*(REPEALED)*

#### SECTION HISTORY

1973, c. 377, §1 (NEW). 2005, c. 543, §A3 (AFF). 2005, c. 543, §A1 (RP).

## Chapter 11: MAINE REVISED UNIFORM LIMITED PARTNERSHIP ACT

### Subchapter 1: GENERAL PROVISIONS ENACTED BY PL 1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

#### **§401. SHORT TITLE**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§402. DEFINITIONS**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 302, §8 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§403. LIMITED PARTNERSHIP NAME**

*(REPEALED)*

##### SECTION HISTORY

RR 1991, c. 2, §116 (COR). 1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 316, §§47,48 (AMD). 1993, c. 616, §7 (AMD). 1993, c. 718, §B9 (AMD). RR 1995, c. 2, §74 (COR). 1995, c. 458, §12 (AMD). 1995, c. 633, §§C11,12 (AMD). 1997, c. 376, §32 (AMD). 1997, c. 633, §§5-7 (AMD). 1999, c. 638, §9 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B49 (COR). 2003, c. 344, §C1 (RP).

#### **§403-A. LIMITED PARTNERSHIP NAME**

*(REPEALED)*

##### SECTION HISTORY

2003, c. 344, §C2 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§404. RESERVATION OF NAME**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2003, c. 344, §C3 (RP).

#### **§404-A. RESERVED NAME**

*(REPEALED)*

##### SECTION HISTORY

2003, c. 344, §C4 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§405. ASSUMED NAME OF LIMITED PARTNERSHIP*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2003, c. 344, §C5 (RP).

**§405-A. ASSUMED OR FICTITIOUS NAME OF LIMITED PARTNERSHIP*****(REPEALED)***

## SECTION HISTORY

2003, c. 344, §C6 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§406. REGISTERED NAME AND RENEWAL FOR FOREIGN LIMITED PARTNERSHIP; TERMINATION*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 316, §49 (AMD). 1995, c. 458, §13 (AMD). 1995, c. 514, §3 (AMD). 2003, c. 344, §C7 (RP).

**§406-A. REGISTERED NAME OF FOREIGN LIMITED PARTNERSHIP*****(REPEALED)***

## SECTION HISTORY

2003, c. 344, §C8 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§407. REGISTERED OFFICE; REGISTERED AGENT*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 316, §§50,51 (AMD). 1997, c. 376, §33 (AMD). 1999, c. 594, §19 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP). 2007, c. 231, §23 (AMD).

**§408. SUSPENSION BY SECRETARY OF STATE*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 780, §U25 (AMD). 1999, c. 638, §§10-12 (AMD). 2003, c. 631, §35 (RP).

**§408-A. GROUNDS FOR ADMINISTRATIVE DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIP*****(REPEALED)***

## SECTION HISTORY

2003, c. 631, §36 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§408-B. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIP**

*(REPEALED)*

##### SECTION HISTORY

2003, c. 631, §36 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§408-C. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIP**

*(REPEALED)*

##### SECTION HISTORY

2003, c. 631, §36 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§408-D. APPEAL FROM DENIAL OF REINSTATEMENT OF DOMESTIC LIMITED PARTNERSHIP**

*(REPEALED)*

##### SECTION HISTORY

2003, c. 631, §36 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§408-E. REINSTATEMENT OF SUSPENDED DOMESTIC LIMITED PARTNERSHIP**

*(REPEALED)*

##### SECTION HISTORY

2003, c. 631, §36 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§409. SERVICE OF PROCESS UPON DOMESTIC LIMITED PARTNERSHIPS**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§410. SERVICE OF NONRESIDENT GENERAL PARTNERS OF DOMESTIC LIMITED PARTNERSHIPS**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).



**§411. NATURE OF BUSINESS PERMITTED*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§412. BUSINESS TRANSACTIONS OF PARTNER WITH PARTNERSHIP*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§413. RULES*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 780, §§U26,27 (AMD). 2003, c. 631, §37 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§414. EXPEDITED SERVICE*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§415. ACCESS TO DATA BASE*****(REPEALED)***

## SECTION HISTORY

1993, c. 316, §52 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§416. PUBLICATIONS*****(REPEALED)***

## SECTION HISTORY

1993, c. 316, §52 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§416-A. CERTIFICATE OF EXISTENCE; CERTIFICATE OF AUTHORITY; CERTIFICATE OF FACT*****(REPEALED)***

## SECTION HISTORY

2003, c. 631, §38 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§417. MERGER OR CONSOLIDATION****(REPEALED)**

## SECTION HISTORY

1999, c. 638, §13 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§418. CONVERSION OF LIMITED PARTNERSHIP****(REPEALED)**

## SECTION HISTORY

1999, c. 638, §13 (NEW). 2003, c. 344, §D18 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§419. APPROVAL OF CONVERSION OF LIMITED PARTNERSHIP****(REPEALED)**

## SECTION HISTORY

1999, c. 638, §13 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

Subchapter 2: FORMATION AND CERTIFICATE OF LIMITED PARTNERSHIP  
ENACTED BY PL 1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

**§421. CERTIFICATE OF LIMITED PARTNERSHIP****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§422. AMENDMENT TO CERTIFICATE****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 316, §53 (AMD). 1995, c. 458, §14 (AMD). 1999, c. 594, §§20,21 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§422-A. CERTIFICATE OF CORRECTION****(REPEALED)**

## SECTION HISTORY

1993, c. 316, §54 (NEW). 1995, c. 633, §C13 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§423. CANCELLATION OF CERTIFICATE****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§424. EXECUTION**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 316, §55 (AMD). 1997, c. 376, §§34,35 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§425. EXECUTION, AMENDMENT OR CANCELLATION BY JUDICIAL ORDER**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§426. FILING**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§427. MATERIALLY INACCURATE STATEMENT**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§428. NOTICE**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

Subchapter 3: LIMITED PARTNERS ENACTED BY PL  
1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

#### **§431. ADMISSION OF LIMITED PARTNERS**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§432. CLASSES AND VOTING*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§433. POWERS AND LIABILITIES*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§434. PERSON ERRONEOUSLY BELIEVING SELF TO BE A LIMITED PARTNER*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§435. ACCESS TO INFORMATION*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§436. REMEDIES FOR BREACH OF PARTNERSHIP AGREEMENT BY LIMITED PARTNER*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§437. DISCLOSURE OF LIMITED PARTNERS*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1999, c. 638, §14 (RP).

Subchapter 4: GENERAL PARTNERS ENACTED BY PL  
1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

**§441. ADMISSION OF GENERAL PARTNERS*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§442. EVENTS OF WITHDRAWAL**

*(REPEALED)*

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§443. GENERAL POWERS AND LIABILITIES**

*(REPEALED)*

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§444. CONTRIBUTIONS BY A GENERAL PARTNER**

*(REPEALED)*

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§445. CLASSES AND VOTING**

*(REPEALED)*

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§446. NATURE OF GENERAL PARTNER'S SERVICES**

*(REPEALED)*

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§447. REMEDIES FOR BREACH OF PARTNERSHIP AGREEMENT BY GENERAL PARTNER**

*(REPEALED)*

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

Subchapter 5: FINANCE ENACTED BY PL 1991,  
C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

**§451. FORM OF CONTRIBUTION*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§452. LIABILITY FOR CONTRIBUTION*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§453. ALLOCATION OF PROFITS AND LOSSES*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§454. ALLOCATION OF DISTRIBUTIONS*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

Subchapter 6: DISTRIBUTIONS AND WITHDRAWAL ENACTED  
BY PL 1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

**§461. INTERIM DISTRIBUTIONS*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§462. WITHDRAWAL OF GENERAL PARTNER AND ASSIGNMENT OF  
GENERAL PARTNER'S PARTNERSHIP INTEREST*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§463. WITHDRAWAL OF LIMITED PARTNER*****(REPEALED)***

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§464. DISTRIBUTION UPON WITHDRAWAL**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§465. DISTRIBUTION IN KIND**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§466. RIGHT TO DISTRIBUTION**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§467. LIMITATIONS ON DISTRIBUTION**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

### **Subchapter 7: ASSIGNMENT OF PARTNERSHIP INTERESTS ENACTED BY PL 1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)**

#### **§471. NATURE OF PARTNERSHIP INTEREST**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

#### **§472. ASSIGNMENT OF PARTNERSHIP INTEREST**

*(REPEALED)*

##### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§473. RIGHTS OF JUDGMENT CREDITOR****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§474. RIGHT OF ASSIGNEE TO BECOME LIMITED PARTNER****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§475. POWERS OF ESTATE OF DECEASED OR INCOMPETENT PARTNER****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

Subchapter 8: DISSOLUTION ENACTED BY PL 1991,  
C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

**§481. NONJUDICIAL DISSOLUTION****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§482. JUDICIAL DISSOLUTION****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§483. WINDING UP****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§484. DISTRIBUTION OF ASSETS****(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).



Subchapter 9: FOREIGN LIMITED PARTNERSHIPS ENACTED  
BY PL 1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

**§491. LAW GOVERNING**

*(REPEALED)*

SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§492. AUTHORITY TO DO BUSINESS REQUIRED; APPLICATION**

*(REPEALED)*

SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 316, §56 (AMD). 1993, c. 316, §57 (AMD). 1997, c. 376, §§36,37 (AMD). 2003, c. 344, §C9 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§493. EVIDENCE OF AUTHORITY TO DO BUSINESS**

*(REPEALED)*

SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§494. NAME; REGISTERED OFFICE; REGISTERED AGENT**

*(REPEALED)*

SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 316, §§58-60 (AMD). 1997, c. 376, §38 (AMD). 2001, c. 66, §3 (AMD). 2003, c. 344, §C10 (AMD). 2005, c. 529, §4 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP). 2007, c. 231, §24 (AMD).

**§495. AMENDMENTS TO APPLICATION**

*(REPEALED)*

SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 316, §61 (AMD). 1995, c. 458, §15 (AMD). 1997, c. 376, §39 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§495-A. CERTIFICATE OF CORRECTION**

*(REPEALED)*

SECTION HISTORY

1993, c. 316, §62 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§496. CANCELLATION OF AUTHORITY TO DO BUSINESS***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§497. DOING BUSINESS WITHOUT AUTHORITY; RIGHT TO SUE AND BE SUED; LIABILITY OF LIMITED PARTNERS; PENALTIES***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1993, c. 616, §8 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§498. DOING BUSINESS WITHOUT AUTHORITY; COURT INJUNCTION; REVOCATION BY SECRETARY OF STATE***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 780, §U28 (AMD). RR 1993, c. 1, §80 (COR). 1993, c. 316, §63 (AMD). 1999, c. 547, §B51 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 344, §§C11,12 (AMD). 2003, c. 631, §39 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§498-A. GROUNDS FOR REVOCATION***(REPEALED)*

## SECTION HISTORY

2003, c. 631, §40 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§498-B. PROCEDURE FOR AND EFFECT OF REVOCATION***(REPEALED)*

## SECTION HISTORY

2003, c. 631, §40 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§498-C. APPEAL FROM REVOCATION***(REPEALED)*

## SECTION HISTORY

2003, c. 631, §40 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§499. EXECUTION OF DOCUMENTS; LIABILITY FOR FALSE STATEMENTS**  
**(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). RR 1993, c. 1, §81 (COR). 1993, c. 316, §64 (RPR). 1997, c. 376, §40 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§500. SERVICE OF PROCESS ON FOREIGN LIMITED PARTNERSHIPS AUTHORIZED TO DO BUSINESS IN STATE**  
**(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§501. SERVICE OF PROCESS ON FOREIGN LIMITED PARTNERSHIPS NOT AUTHORIZED TO DO BUSINESS IN STATE**  
**(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§502. SERVICE OF PROCESS ON SECRETARY OF STATE FOR FOREIGN LIMITED PARTNERSHIP**  
**(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

Subchapter 10: DERIVATIVE ACTIONS ENACTED BY PL  
1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

**§511. RIGHT TO BRING ACTION**  
**(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§512. PROPER PLAINTIFF**  
**(REPEALED)**

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§513. COMPLAINT***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§514. EXPENSES***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

Subchapter 11: MISCELLANEOUS ENACTED BY PL  
1991, C. 552, §2; 2005, C. 543, PT. C, §1 (RP); §3 (AFF)

**§521. CONSTRUCTION AND APPLICATION OF CHAPTER***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1999, c. 638, §15 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§522. CONSTRUCTION AND APPLICATION OF PARTNERSHIP AGREEMENT***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§523. EFFECTIVE DATE***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§524. APPLICATION TO EXISTING LIMITED PARTNERSHIP; DEFINITION***(REPEALED)*

## SECTION HISTORY

RR 1991, c. 1, §43 (COR). 1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1997, c. 376, §41 (AMD). 2003, c. 344, §C13 (AMD). 2003, c. 631, §41 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§525. CASES NOT PROVIDED FOR IN CHAPTER***(REPEALED)*

## SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§526. FEES, PENALTIES**

***(REPEALED)***

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 1991, c. 780, §§U29-31 (AMD). 1993, c. 316, §§65-73 (AMD). 1995, c. 458, §§16,17 (AMD). 1997, c. 376, §§42-46 (AMD). 1999, c. 594, §§22,23 (AMD). 1999, c. 638, §§16-20 (AMD). RR 2003, c. 2, §95 (COR). 2003, c. 344, §§C14-18 (AMD). 2003, c. 631, §§42-48 (AMD). 2003, c. 673, §§WWW14-21 (AMD). 2003, c. 673, §§WWW37 (AFF). 2003, c. 673, §§XX4, 5 (AMD). 2003, c. 673, §§XX10 (AFF). 2005, c. 12, §§FF6-8 (AMD). 2005, c. 397, §A34 (AMD). 2005, c. 397, §A35 (AFF). 2005, c. 529, §5 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§527. RESERVED POWER OF STATE TO ALTER OR REPEAL CHAPTER**

***(REPEALED)***

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§528. DUTY OF SECRETARY OF STATE**

***(REPEALED)***

### SECTION HISTORY

1991, c. 552, §2 (NEW). 1991, c. 552, §4 (AFF). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§529. ANNUAL REPORT OF DOMESTIC AND FOREIGN LIMITED PARTNERSHIPS**

***(REPEALED)***

### SECTION HISTORY

1991, c. 780, §U32 (NEW). 1997, c. 376, §47 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## **§529-A. AMENDED ANNUAL REPORT OF DOMESTIC OR FOREIGN LIMITED PARTNERSHIP**

***(REPEALED)***

### SECTION HISTORY

2003, c. 631, §49 (NEW). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

**§530. FAILURE TO FILE ANNUAL REPORT; INCORRECT REPORT;  
PENALTIES***(REPEALED)*

## SECTION HISTORY

1991, c. 780, §U33 (NEW). 1995, c. 458, §18 (AMD). 1999, c. 547, §B52 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 631, §50 (AMD). 2005, c. 543, §C3 (AFF). 2005, c. 543, §C1 (RP).

## Chapter 13: LIMITED LIABILITY COMPANIES

### Subchapter 1: GENERAL PROVISIONS

#### §601. SHORT TITLE

*(REPEALED)*

SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

#### §602. DEFINITIONS

*(REPEALED)*

SECTION HISTORY

1993, c. 718, §A1 (NEW). 2005, c. 302, §9 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

#### §603. LIMITED LIABILITY COMPANY NAME

*Limited liability company name*

*(REPEALED)*

SECTION HISTORY

1993, c. 718, §A1 (NEW). RR 1995, c. 2, §75 (COR). 1995, c. 458, §19 (AMD). 1995, c. 633, §§C14,15 (AMD). 1997, c. 376, §48 (AMD). 1997, c. 633, §§8,9 (AMD). 1999, c. 638, §21 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B50 (COR). 2003, c. 344, §C19 (RP).

#### §603-A. LIMITED LIABILITY COMPANY NAME

*(REPEALED)*

SECTION HISTORY

2003, c. 344, §C20 (NEW). 2005, c. 543, §D13 (AMD). 2005, c. 543, §D18 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

#### §604. RESERVATION OF NAME

*Reservation of name*

*(REPEALED)*

SECTION HISTORY

1993, c. 718, §A1 (NEW). 2003, c. 344, §C21 (RP).

#### §604-A. RESERVED NAME

*(REPEALED)*

SECTION HISTORY

2003, c. 344, §C22 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§605. ASSUMED NAME**

*Assumed name*  
(REPEALED)

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2003, c. 344, §C23 (RP).

**§605-A. ASSUMED OR FICTITIOUS NAME OF LIMITED LIABILITY COMPANY**

(REPEALED)

## SECTION HISTORY

2003, c. 344, §C24 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§606. REGISTERED NAME AND RENEWAL FOR FOREIGN LIMITED LIABILITY COMPANY; TERMINATION**

*Registered name and renewal for foreign limited liability company; termination*  
(REPEALED)

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1995, c. 458, §20 (AMD). 1995, c. 514, §§4,5 (AMD). 2003, c. 344, §C25 (RP).

**§606-A. REGISTERED NAME OF FOREIGN LIMITED LIABILITY COMPANY**

(REPEALED)

## SECTION HISTORY

2003, c. 344, §C26 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§607. REGISTERED OFFICE; REGISTERED AGENT**

(REPEALED)

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 594, §24 (AMD). 2007, c. 231, §25 (AMD). 2007, c. 323, Pt. D, §1 (RP). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§607-A. REGISTERED AGENT OF DOMESTIC LIMITED LIABILITY COMPANY**

(REPEALED)

## SECTION HISTORY

2007, c. 535, Pt. B, §6 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§608. SUSPENSION BY SECRETARY OF STATE**

(REPEALED)

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 638, §§22-25 (AMD). 2003, c. 631, §51 (RP).



## **§608-A. GROUNDS FOR ADMINISTRATIVE DISSOLUTION OF DOMESTIC LIMITED LIABILITY COMPANY**

***(REPEALED)***

### **SECTION HISTORY**

2003, c. 631, §52 (NEW). 2007, c. 323, Pt. D, §§2, 3 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§608-B. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION**

***(REPEALED)***

### **SECTION HISTORY**

2003, c. 631, §52 (NEW). 2007, c. 323, Pt. D, §§4-6 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§608-C. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION**

***(REPEALED)***

### **SECTION HISTORY**

2003, c. 631, §52 (NEW). 2007, c. 323, Pt. D, §7 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§608-D. APPEAL FROM DENIAL OF REINSTATEMENT**

***(REPEALED)***

### **SECTION HISTORY**

2003, c. 631, §52 (NEW). 2007, c. 323, Pt. D, §8 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§608-E. REINSTATEMENT OF SUSPENDED DOMESTIC LIMITED LIABILITY COMPANY**

***(REPEALED)***

### **SECTION HISTORY**

2003, c. 631, §52 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§608-F. REVIVAL OF DOMESTIC LIMITED LIABILITY COMPANY AFTER DISSOLUTION**

***(REPEALED)***

### **SECTION HISTORY**

2007, c. 231, §26 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§609. SERVICE OF PROCESS UPON DOMESTIC LIMITED LIABILITY COMPANY*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). RR 1995, c. 2, §76 (COR). 2007, c. 323, Pt. D, §9 (RP). 2007, c. 323, Pt. G, §4 (AFF).

**§609-A. SERVICE OF PROCESS UPON DOMESTIC LIMITED LIABILITY COMPANY*****(REPEALED)***

## SECTION HISTORY

2007, c. 323, Pt. D, §10 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§610. SERVICE OF NONRESIDENT MANAGERS OR MEMBERS OF DOMESTIC LIMITED LIABILITY COMPANIES*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§611. NATURE OF BUSINESS*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1995, c. 633, §C16 (RPR). RR 2001, c. 2, §C7 (AFF). RR 2001, c. 2, §C3 (COR). 2003, c. 344, §D19 (AMD). 2005, c. 302, §§10,11 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§612. RULES*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2003, c. 631, §53 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§613. EXPEDITED SERVICE*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§614. ACCESS TO DATABASE*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§615. PUBLICATIONS**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§616. CERTIFICATE OF EXISTENCE; CERTIFICATE OF AUTHORITY; CERTIFICATE OF FACT**

*(REPEALED)*

## SECTION HISTORY

2003, c. 631, §54 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**Subchapter 2: FORMATION ENACTED BY PL 1993, C. 718, PT. A, §1****§621. FORMATION**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 633, §10 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§622. ARTICLES OF ORGANIZATION**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1995, c. 514, §6 (AMD). 2007, c. 323, Pt. D, §11 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§623. AMENDMENT TO ARTICLES**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1995, c. 514, §§7,8 (AMD). 1997, c. 376, §49 (AMD). 2007, c. 323, Pt. D, §§12, 13 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 164, §1 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§624. CERTIFICATE OF CORRECTION**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1995, c. 633, §C17 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§625. CERTIFICATE OF CANCELLATION**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2007, c. 231, §27 (AMD). 2009, c. 56, §21 (AMD). 2009, c. 164, §2 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§626. STATEMENT OF LIMITED LIABILITY COMPANY AUTHORITY**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 376, §50 (AMD). 1997, c. 633, §11 (RP).

## **§627. EXECUTION**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 376, §§51,52 (AMD). 2007, c. 323, Pt. D, §14 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§628. EXECUTION, AMENDMENT OR CANCELLATION BY JUDICIAL ORDER**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, Pt. A, §1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§629. FILING**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§630. MATERIALLY INACCURATE STATEMENT**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§631. NOTICE**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**Subchapter 3: RELATIONS OF MEMBERS AND MANAGERS  
TO PERSONS DEALING WITH A LIMITED LIABILITY  
COMPANY ENACTED BY PL 1993, C. 718, PT. A, §1**

**§641. AGENCY POWER OF MEMBERS AND MANAGERS**

***(REPEALED)***

SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 633, §12 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§642. ADMISSIONS OF MEMBERS AND MANAGERS**

***(REPEALED)***

SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 633, §13 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§643. LIMITED LIABILITY COMPANY CHARGED WITH KNOWLEDGE OF OR  
NOTICE TO MEMBER OR MANAGER**

***(REPEALED)***

SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 633, §14 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§644. LIMITED LIABILITY COMPANY LIABLE FOR MEMBER'S OR  
MANAGER'S ACTIONABLE CONDUCT; MISAPPLICATION**

***(REPEALED)***

SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§645. LIABILITY TO 3RD PARTIES**

***(REPEALED)***

SECTION HISTORY

1993, c. 718, §A1 (NEW). RR 1995, c. 2, §77 (COR). 1995, c. 458, §21 (AMD). RR 2001, c. 2, §C7 (AFF). RR 2001, c. 2, §C4 (COR). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§646. PARTIES TO ACTIONS**

***(REPEALED)***

SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§647. DISCLOSURE OF MEMBERS****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 638, §26 (RP).

**Subchapter 4: RIGHTS AND DUTIES OF MEMBERS AND  
MANAGERS ENACTED BY PL 1993, C. 718, PT. A, §1****§651. MANAGEMENT; VOTING; CLASSES****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§652. DUTIES OF MANAGERS AND MEMBERS****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 633, §§15,16 (AMD). 2009, c. 164, §3 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§653. VOTING****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§654. INDEMNIFICATION OF MANAGERS, MEMBERS, EMPLOYEES AND  
AGENTS; INSURANCE****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§655. RECORDS AND INFORMATION****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§656. REMEDIES FOR BREACH OF OPERATING AGREEMENT BY MANAGER****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§657. RELIANCE ON REPORTS AND INFORMATION BY MEMBER OR MANAGER**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

Subchapter 5: FINANCE ENACTED BY PL 1993, C. 718, PT. A, §1

## **§661. CONTRIBUTIONS TO CAPITAL**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§662. LIABILITY FOR CONTRIBUTIONS**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§663. ALLOCATION OF PROFITS AND LOSSES**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

Subchapter 6: DISTRIBUTIONS AND WITHDRAWAL  
ENACTED BY PL 1993, C. 718, PT. A, §1

## **§671. SHARING OF INTERIM DISTRIBUTIONS**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§672. DISTRIBUTIONS ON WITHDRAWAL**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§673. DISTRIBUTION**

***(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§674. RIGHT TO DISTRIBUTION**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§675. RESTRICTIONS ON DISTRIBUTIONS AND WRONGFUL DISTRIBUTIONS**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§676. LIABILITY UPON WRONGFUL DISTRIBUTION**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

Subchapter 7: OWNERSHIP AND TRANSFER OF  
PROPERTY ENACTED BY PL 1993, C. 718, PT. A, §1

**§681. OWNERSHIP OF LIMITED LIABILITY COMPANY PROPERTY**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§682. RULES FOR DETERMINING WHEN PROPERTY IS OWNED BY A  
LIMITED LIABILITY COMPANY**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§683. TRANSFER OF PROPERTY**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).



**§684. NATURE OF MEMBERSHIP INTEREST*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§685. ASSIGNMENT OF MEMBERSHIP INTEREST*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§686. RIGHTS OF JUDGMENT CREDITOR*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§687. RIGHT OF ASSIGNEE TO BECOME A MEMBER*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§688. POWERS OF ESTATE OF A DECEASED OR INCOMPETENT MEMBER*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

Subchapter 8: ADMISSION AND WITHDRAWAL OF  
MEMBERS ENACTED BY PL 1993, C. 718, PT. A, §1

**§691. ADMISSION OF MEMBERS*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§692. EVENTS OF WITHDRAWAL*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§693. POWER OF MEMBER WHO HAS WITHDRAWN TO BIND LIMITED LIABILITY COMPANY****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§694. STATEMENT OF WITHDRAWAL****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§695. RIGHTS OF FORMER MEMBER****(REPEALED)**

## SECTION HISTORY

1999, c. 638, §27 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

Subchapter 9: DISSOLUTION ENACTED BY PL 1993, C. 718, PT. A, §1

**§701. NONJUDICIAL DISSOLUTION****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 633, §§17,18 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§702. DISSOLUTION PURSUANT TO COURT ORDER****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§703. WINDING UP****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 164, §4 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§704. AGENCY POWER OF MANAGERS OR MEMBERS AFTER DISSOLUTION****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§705. DISTRIBUTION OF ASSETS*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§706. KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§707. UNKNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2007, c. 323, Pt. D, §15 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

Subchapter 10: FOREIGN LIMITED LIABILITY  
COMPANIES ENACTED BY PL 1993, C. 718, PT. A, §1

**§711. LAWS GOVERNING FOREIGN LIMITED LIABILITY COMPANIES*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§712. AUTHORITY TO DO BUSINESS REQUIRED; APPLICATION*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). RR 1995, c. 2, §78 (COR). 1997, c. 376, §§53,54 (AMD). 2003, c. 344, §C27 (AMD). 2005, c. 302, §§12-14 (AMD). 2007, c. 323, Pt. D, §§16-18 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§713. EVIDENCE OF AUTHORITY TO DO BUSINESS*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§714. NAME; REGISTERED OFFICE; REGISTERED AGENT****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 376, §55 (AMD). 1999, c. 594, §25 (AMD). 2003, c. 344, §C28 (AMD). 2005, c. 529, §6 (AMD). 2007, c. 231, §28 (AMD). 2007, c. 323, Pt. D, §§19–24 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2007, c. 535, Pt. B, §7 (AMD). 2009, c. 415, Pt. A, §15 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§715. AMENDMENTS TO APPLICATION****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1995, c. 458, §22 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§716. CERTIFICATE OF CORRECTION****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§717. CANCELLATION OF AUTHORITY TO DO BUSINESS****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§718. DOING BUSINESS WITHOUT AUTHORITY; RIGHT TO SUE AND BE SUED; LIABILITY OF MEMBERS; PENALTIES****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§719. DOING BUSINESS WITHOUT AUTHORITY; COURT INJUNCTION; REVOCATION BY SECRETARY OF STATE****(REPEALED)**

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 547, §B53 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 344, §C29 (AMD). 2003, c. 631, §55 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§719-A. GROUNDS FOR REVOCATION OF AUTHORITY OF FOREIGN LIMITED LIABILITY COMPANY*****(REPEALED)***

## SECTION HISTORY

2003, c. 631, §56 (NEW). 2007, c. 323, Pt. D, §§25, 26 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§719-B. PROCEDURE FOR AND EFFECT OF REVOCATION*****(REPEALED)***

## SECTION HISTORY

2003, c. 631, §56 (NEW). 2007, c. 323, Pt. D, §§27-29 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§719-C. APPEAL FROM REVOCATION*****(REPEALED)***

## SECTION HISTORY

2003, c. 631, §56 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§720. ACTION BY ATTORNEY GENERAL*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§721. EXECUTION OF DOCUMENTS; LIABILITY FOR FALSE STATEMENTS*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 376, §56 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§722. SERVICE OF PROCESS ON FOREIGN LIMITED LIABILITY COMPANIES AUTHORIZED TO DO BUSINESS IN STATE*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2007, c. 323, Pt. D, §30 (RP). 2007, c. 323, Pt. G, §4 (AFF).

**§722-A. SERVICE OF PROCESS UPON FOREIGN LIMITED LIABILITY COMPANY AUTHORIZED TO DO BUSINESS IN STATE*****(REPEALED)***

## SECTION HISTORY

2007, c. 323, Pt. D, §31 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§723. SERVICE OF PROCESS ON FOREIGN LIMITED LIABILITY COMPANY NOT AUTHORIZED TO DO BUSINESS IN STATE**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2007, c. 323, Pt. D, §32 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§724. SERVICE OF PROCESS ON SECRETARY OF STATE FOR FOREIGN LIMITED LIABILITY COMPANY**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2007, c. 323, Pt. D, §33 (RP). 2007, c. 323, Pt. G, §4 (AFF).

Subchapter 11: SUITS BY AND AGAINST THE LIMITED  
LIABILITY COMPANY ENACTED BY PL 1993, C. 718, PT. A, §1

**§731. SUITS BY AND AGAINST A LIMITED LIABILITY COMPANY**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§732. RIGHT TO BRING ACTION**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§733. PROPER PLAINTIFF**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§734. COMPLAINT**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§735. EXPENSES**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## Subchapter 12: MERGER AND CONSOLIDATION ENACTED BY PL 1993, C. 718, PT. A, §1

## **§741. MERGER OR CONSOLIDATION**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 638, §28 (RP).

## **§741-A. MERGER OR CONSOLIDATION**

***(REPEALED)***

### SECTION HISTORY

1999, c. 638, §29 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§742. APPROVAL OF MERGER OR CONSOLIDATION**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 638, §30 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§743. PLAN OF MERGER OR CONSOLIDATION**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 638, §30 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§744. CERTIFICATE OF MERGER OR CONSOLIDATION**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 638, §§31,32 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§745. EFFECTS OF MERGER OR CONSOLIDATION**

***(REPEALED)***

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 638, §33 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§746. CONVERSION OF LIMITED LIABILITY COMPANY**

**(REPEALED)**

### SECTION HISTORY

1999, c. 638, §34 (NEW). 2003, c. 344, §D20 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§747. APPROVAL OF CONVERSION OF LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY**

**(REPEALED)**

### SECTION HISTORY

1999, c. 638, §34 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

Subchapter 13: MISCELLANEOUS ENACTED BY PL 1993, C. 718, PT. A, §1

## **§751. FEES; PENALTIES**

**(REPEALED)**

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1995, c. 458, §23 (AMD). 1995, c. 514, §9 (AMD). 1997, c. 376, §§57-60 (AMD). 1997, c. 633, §19 (AMD). 1999, c. 594, §26 (AMD). 1999, c. 638, §§35-39 (AMD). RR 2003, c. 2, §96 (COR). 2003, c. 344, §§C30-33 (AMD). 2003, c. 631, §§57-63 (AMD). 2003, c. 673, §§WWW22-29 (AMD). 2003, c. 673, §§WWW37,XXX10 (AFF). 2003, c. 673, §XXX6, 7 (AMD). 2005, c. 12, §§FF9-11 (AMD). 2005, c. 397, §A36 (AMD). 2005, c. 397, §A37 (AFF). 2005, c. 529, §7 (AMD). 2007, c. 231, §§29-32 (AMD). 2007, c. 323, Pt. D, §§34-37 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2007, c. 496, §§1-4 (AMD). 2007, c. 535, Pt. A, §§4, 5 (AMD). 2007, c. 535, Pt. A, §7 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§752. KNOWLEDGE**

**(REPEALED)**

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## **§753. RULES OF CONSTRUCTION**

**(REPEALED)**

### SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 638, §40 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).



**§754. JURISDICTION OF THE SUPERIOR COURT*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§755. INTERSTATE APPLICATION*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§756. DUTY OF SECRETARY OF STATE*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§757. ANNUAL REPORT OF DOMESTIC AND FOREIGN LIMITED LIABILITY COMPANIES*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1997, c. 376, §61 (AMD). 2007, c. 323, Pt. D, §§38-41 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2007, c. 496, §§5, 6 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§757-A. AMENDED ANNUAL REPORT OF DOMESTIC OR FOREIGN LIMITED LIABILITY COMPANY*****(REPEALED)***

## SECTION HISTORY

2003, c. 631, §64 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§758. FAILURE TO FILE ANNUAL REPORT; INCORRECT REPORT; PENALTIES*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1995, c. 458, §24 (AMD). 1999, c. 547, §B54 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 631, §65 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§759. EFFECTIVE DATE*****(REPEALED)***

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§760. APPLICATION TO EXISTING FOREIGN LIMITED LIABILITY COMPANIES; DEFINITION**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B51 (COR). 2005, c. 543, §D14 (AMD). 2005, c. 543, §D18 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§761. TAXATION OF LIMITED LIABILITY COMPANIES**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 1999, c. 414, §§4,5 (AMD). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

**§762. REFERENCES TO LIMITED PARTNERSHIPS**

*(REPEALED)*

## SECTION HISTORY

1993, c. 718, §A1 (NEW). 2005, c. 543, §D15 (AMD). 2005, c. 543, §D18 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. A, §1 (RP).

## Chapter 15: LIMITED LIABILITY PARTNERSHIPS

### Subchapter 1: GENERAL PROVISIONS HEADING: PL 1995, C. 633, PT. B, §1 (NEW)

#### §801. SHORT TITLE

This Act is known and may be cited as the "Maine Limited Liability Partnership Act." [1995, c. 633, Pt. B, §1 (NEW).]

##### SECTION HISTORY

1995, c. 633, §B1 (NEW).

#### §802. DEFINITIONS

*(REPEALED)*

##### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2005, c. 302, §15 (RP).

#### §802-A. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 302, §16 (NEW).]

**1. Deliver; delivery.** "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

[ 2005, c. 302, §16 (NEW) .]

**2. Electronic transmission.** "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

[ 2005, c. 302, §16 (NEW) .]

**3. Foreign limited liability partnership.** "Foreign limited liability partnership" means a limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of that jurisdiction.

[ 2005, c. 302, §16 (NEW) .]

**4. Registered limited liability partnership.** "Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by the Uniform Partnership Act and registered under this Act.

[ 2005, c. 302, §16 (NEW) .]

**5. Sign; signature.** "Sign" or "signature" includes any manual, facsimile, conformed or electronic signature.

[ 2005, c. 302, §16 (NEW) .]

##### SECTION HISTORY

2005, c. 302, §16 (NEW).

**§803. REGISTERED LIMITED LIABILITY PARTNERSHIP NAME****(REPEALED)**

## SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §62 (AMD). 1997, c. 633, §§20,21 (AMD). 1999, c. 638, §41 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B52 (COR). 2003, c. 344, §C34 (RP).

**§803-A. REGISTERED LIMITED LIABILITY PARTNERSHIP NAME**

**1. Requirements.** A limited liability partnership name must contain the words "Limited Liability Partnership," the abbreviation "L.L.P." or the designation "LLP" unless the partnership is filing an assumed name under section 805-A or a registration of name under section 806-A. If the words "Limited Liability Partnership," "Limited Liability Partnership, Chartered," "Limited Liability Partnership, Professional Association," "Limited Liability Partnership, P.A." or any of the designations without commas are used, a limited liability partnership may also use the abbreviation "L.L.P." or the designation "LLP" without filing an assumed name under section 805-A.

[ 2003, c. 344, Pt. C, §35 (NEW) .]

**2. Distinguishable name.** Except as authorized by subsections 3 and 4, a limited liability partnership name must be distinguishable on the records of the Secretary of State from:

A. The name of a corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State; [2003, c. 344, Pt. C, §35 (NEW).]

B. Assumed, fictitious, reserved and registered name filings for all entities; and [2003, c. 344, Pt. C, §35 (NEW).]

C. Marks registered under Title 10, chapter 301-A unless the registered owner or holder of the mark is the same person or entity as the limited liability partnership seeking to use a name that is not distinguishable on the records of the Secretary of State and files proof of ownership with the Secretary of State. [2003, c. 344, Pt. C, §35 (NEW).]

[ 2003, c. 344, Pt. C, §35 (NEW) .]

**3. Refuse to file name.** The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene; [2003, c. 344, Pt. C, §35 (NEW).]

B. Inappropriately promotes abusive or unlawful activity; [2003, c. 344, Pt. C, §35 (NEW).]

C. Falsely suggests an association with public institutions; or [2003, c. 344, Pt. C, §35 (NEW).]

D. Violates any other provision of the law of this State with respect to names. [2003, c. 344, Pt. C, §35 (NEW).]

[ 2003, c. 344, Pt. C, §35 (NEW) .]

**4. Authorization to use name.** A limited liability partnership may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the Secretary of State from one or more of the names described in subsection 2. The Secretary of State shall authorize use of the name applied for if:

A. The entity in possession of the name consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable on the records of the Secretary of State from the name of the applicant; or [2003, c. 344, Pt. C, §35 (NEW).]

B. The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State. [2003, c. 344, Pt. C, §35 (NEW).]

[2003, c. 344, Pt. C, §35 (NEW).]

**5. Use of another limited liability partnership's name.** A limited liability partnership may use the name, including the assumed or fictitious name, of another registered or foreign limited liability partnership that is used in this State if the other limited liability partnership is organized or authorized to transact business in this State and the limited liability partnership proposing to use the name:

A. Has merged with the other limited liability partnership; [2003, c. 344, Pt. C, §35 (NEW).]

B. Has been formed by reorganization of the other limited liability partnership; or [2003, c. 344, Pt. C, §35 (NEW).]

C. Has acquired all or substantially all of the assets, including the limited liability partnership name, of the other limited liability partnership. [2003, c. 344, Pt. C, §35 (NEW).]

[2003, c. 344, Pt. C, §35 (NEW).]

**6. Determining distinguishability.** In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

A. Words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "limited liability limited partnership," "service corporation" and "professional corporation"; [2005, c. 543, Pt. D, §16 (AMD); 2005, c. 543, Pt. D, §18 (AFF).]

B. The presence or absence of the words or symbols of the words "and" and "the"; and [2003, c. 344, Pt. C, §35 (NEW).]

C. Differences in the use of punctuation, capitalization or special characters. [2003, c. 344, Pt. C, §35 (NEW).]

[2005, c. 543, Pt. D, §16 (AMD); 2005, c. 543, Pt. D, §18 (AFF).]

**7. Change of limited liability partnership name by foreign limited liability partnership.** If a foreign limited liability partnership authorized to transact business in this State changes its name to one that does not satisfy the requirements of this section, it may not transact business in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended application for authority under section 855 that is accompanied by a statement of use of a fictitious name under section 805-A.

[2003, c. 344, Pt. C, §35 (NEW).]

**8. Exception.** Notwithstanding subsection 2, the name of a limited liability partnership may be not distinguishable on the records of the Secretary of State if the foreign limited liability partnership was authorized to do business in this State prior to January 1, 1996 and had the right to use the name as its legal name before that date.

[ 2003, c. 344, Pt. C, §35 (NEW) .]

**9. Name of limited liability partnership revoked.** Subsection 2 does not apply to the name of any partnership whose status as a limited liability partnership has been revoked on and after the 3rd anniversary of the revocation.

[ 2003, c. 344, Pt. C, §35 (NEW) .]

#### SECTION HISTORY

2003, c. 344, §C35 (NEW). 2005, c. 543, §D16 (AMD). 2005, c. 543, §D18 (AFF).

### §804. RESERVATION OF NAME

*(REPEALED)*

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2003, c. 344, §C36 (RP).

### §804-A. RESERVED NAME

**1. Reserve use of name.** A person may reserve the exclusive use of a limited liability partnership name, including an assumed or fictitious name, by executing and delivering for filing an application to the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited liability partnership name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

[ 2013, c. 99, §3 (AMD) .]

**2. Transfer of reservation.** The owner of a reserved limited liability partnership name under subsection 1 may transfer the reservation to another person by executing and delivering for filing to the Secretary of State a notice of the transfer, signed by the transferor, that states the name and address of the transferee.

[ 2003, c. 344, Pt. C, §37 (NEW) .]

#### SECTION HISTORY

2003, c. 344, §C37 (NEW). 2013, c. 99, §3 (AMD).

### §805. ASSUMED NAME

*(REPEALED)*

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2003, c. 344, §C38 (RP).

## §805-A. ASSUMED OR FICTITIOUS NAME OF LIMITED LIABILITY PARTNERSHIP

**1. Assumed name defined.** As used in this section, "assumed name" means a trade name or any name other than the real name of a limited liability partnership except a fictitious name.

[ 2003, c. 344, Pt. C, §39 (NEW) . ]

**2. Fictitious name defined.** As used in this section, "fictitious name" means a name adopted by a foreign limited liability partnership authorized to transact business in this State because its real name is unavailable pursuant to section 803-A.

[ 2003, c. 344, Pt. C, §39 (NEW) . ]

**3. Authorized to transact business.** Upon complying with this section, a registered or foreign limited liability partnership authorized to transact business in this State may transact its business in this State under one or more assumed or fictitious names.

[ 2003, c. 344, Pt. C, §39 (NEW) . ]

**4. File statement indicating use of assumed or fictitious name.** Prior to transacting business in this State under an assumed or fictitious name, a limited liability partnership shall execute and deliver to the Secretary of State for filing a statement setting forth:

A. The limited liability partnership name; [2003, c. 344, Pt. C, §39 (NEW) . ]

B. That the limited liability partnership intends to transact business under an assumed or fictitious name; [2003, c. 344, Pt. C, §39 (NEW) . ]

C. The assumed or fictitious name that the limited liability partnership proposes to use; [2003, c. 344, Pt. C, §39 (NEW) . ]

D. If the assumed name is not to be used at all of the limited liability partnership's places of business in this State, the locations where that name will be used; and [2003, c. 344, Pt. C, §39 (NEW) . ]

E. If the company is a foreign limited liability partnership:

(1) The jurisdiction of organization; and

(2) The date on which it was authorized to transact business in this State. [2003, c. 344, Pt. C, §39 (NEW) . ]

A separate statement must be executed and delivered to the Secretary of State for filing with respect to each assumed or fictitious name that the limited liability partnership proposes to use.

[ 2003, c. 344, Pt. C, §39 (NEW) . ]

**5. Compliance required.** Each assumed or fictitious name must comply with the requirements of section 803-A.

[ 2003, c. 344, Pt. C, §39 (NEW) . ]

**6. Enjoin use of assumed or fictitious name.** If a limited liability partnership uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

[ 2003, c. 344, Pt. C, §39 (NEW) . ]

**7. Enjoin use despite compliance.** Notwithstanding its compliance with the requirements of this section, the use of an assumed name or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by such use if:

- A. The assumed or fictitious name did not, at the time the statement required by subsection 4 was filed, comply with the requirements of section 803-A; or [2003, c. 344, Pt. C, §39 (NEW).]
- B. The assumed or fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law. [2003, c. 344, Pt. C, §39 (NEW).]

The mere filing of a statement pursuant to subsection 4 does not constitute actual use of the assumed or fictitious name set out in that statement for the purpose of determining priority of rights.

[ 2003, c. 344, Pt. C, §39 (NEW) .]

**8. Terminate use of assumed or fictitious name.** A limited liability partnership may terminate an assumed or fictitious name by executing and delivering to the Secretary of State a statement setting forth:

- A. The name of the limited liability partnership; [2003, c. 344, Pt. C, §39 (NEW).]
- B. That the limited liability partnership no longer intends to transact business under the assumed or fictitious name; and [2003, c. 344, Pt. C, §39 (NEW).]
- C. The assumed or fictitious name the limited liability partnership intends to terminate. [2003, c. 344, Pt. C, §39 (NEW).]

[ 2003, c. 344, Pt. C, §39 (NEW) .]

#### SECTION HISTORY

2003, c. 344, §C39 (NEW).

## §806. REGISTERED NAME AND RENEWAL FOR FOREIGN LIMITED LIABILITY PARTNERSHIP; TERMINATION

*(REPEALED)*

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §63 (AMD). 2003, c. 344, §C40 (RP).

## §806-A. REGISTERED NAME OF FOREIGN LIMITED LIABILITY PARTNERSHIP

**1. Register limited liability partnership name.** A foreign limited liability partnership may register its limited liability partnership name if the name is distinguishable on the records of the Secretary of State pursuant to section 803-A.

[ 2003, c. 344, Pt. C, §41 (NEW) .]

**2. Application.** To register its limited liability partnership name, a foreign limited liability partnership must execute and deliver to the Secretary of State for filing an application that:

- A. Sets forth its limited liability partnership name, the state or country and date of its organization, the address of its principal office wherever located and a brief description of the nature of the business in which it is engaged; and [2003, c. 344, Pt. C, §41 (NEW).]



B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized. In lieu of a certificate of existence, a copy of the foreign limited liability partnership's registration certified or stamped by the secretary of state or other proper officer in its domestic jurisdiction is a sufficient equivalent if such an officer does not produce any other type of certificate of existence. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing. [ 2003, c. 344, Pt. C, §41 (NEW). ]

[ 2003, c. 344, Pt. C, §41 (NEW) . ]

**3. Applicant's exclusive use.** A limited liability partnership name is registered for a foreign limited liability partnership's exclusive use upon the effective date of the application under subsection 2 until the end of the calendar year in which the application was filed.

[ 2003, c. 344, Pt. C, §41 (NEW) . ]

**4. Renewal of registered name.** A foreign limited liability partnership whose registration under this section is effective may renew it for a successive year by delivering for filing to the Secretary of State between October 1st and December 31st a renewal application that complies with the requirements of subsection 2. The renewal application, when filed, renews the registration for the following calendar year.

[ 2003, c. 344, Pt. C, §41 (NEW) . ]

**5. Qualify as foreign limited liability partnership.** A foreign limited liability partnership whose registration under this section is effective may, after the registration is effective, qualify as a foreign limited liability partnership under the registered name or may consent in writing to the use of that name by a registered limited liability partnership organized under this Act or by another foreign limited liability partnership authorized to transact business in this State. The registration terminates when the partnership becomes a registered limited liability partnership or the foreign limited liability partnership qualifies or consents to the qualification of another foreign limited liability partnership under the registered name.

[ 2003, c. 344, Pt. C, §41 (NEW) . ]

#### SECTION HISTORY

2003, c. 344, §C41 (NEW).

### **§807. REGISTERED OFFICE; REGISTERED AGENT (REPEALED)**

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1999, c. 594, §27 (AMD). 2007, c. 323, Pt. E, §1 (RP). 2007, c. 323, Pt. G, §4 (AFF).

### **§807-A. REGISTERED AGENT OF LIMITED LIABILITY PARTNERSHIP**

Each registered limited liability partnership must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A. [ 2007, c. 535, Pt. B, §8 (NEW) . ]

#### SECTION HISTORY

2007, c. 535, Pt. B, §8 (NEW).

## §808. REVOCATION OF REGISTERED LIMITED LIABILITY PARTNERSHIP STATUS BY SECRETARY OF STATE

*(REPEALED)*

### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2003, c. 631, §66 (RP).

## §808-A. GROUNDS FOR REVOCATION OF REGISTERED LIMITED LIABILITY PARTNERSHIP'S STATUS

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 808-B to revoke the status of a partnership as a registered limited liability partnership if: [2003, c. 631, §67 (NEW).]

**1. Nonpayment of fees, penalties.** The registered limited liability partnership does not pay when they are due any fees or penalties imposed by this chapter or other law;

[ 2003, c. 631, §67 (NEW) .]

**2. Failure to file annual report.** The registered limited liability partnership does not deliver its annual report to the Secretary of State as required by section 873;

[ 2003, c. 631, §67 (NEW) .]

**3. Failure to pay late filing penalty.** The registered limited liability partnership does not pay the annual report late filing penalty as required by section 874;

[ 2003, c. 631, §67 (NEW) .]

**4. Failure to maintain registered agent.** The registered limited liability partnership is without a registered agent in this State as required by Title 5, section 105, subsection 1;

[ 2007, c. 323, Pt. E, §2 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**5. Failure to notify of change of registered agent or address.** The registered limited liability partnership does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111; or

[ 2007, c. 323, Pt. E, §3 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**6. Filing of false information.** A partner or agent of the registered limited liability partnership signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the Secretary of State for filing.

[ 2003, c. 631, §67 (NEW) .]

### SECTION HISTORY

2003, c. 631, §67 (NEW). 2007, c. 323, Pt. E, §§2, 3 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §808-B. PROCEDURE FOR AND EFFECT OF REVOCATION

### 1. Notice of determination to revoke partnership's status as registered limited liability partnership.

If the Secretary of State determines that one or more grounds exist under section 808-A for revoking a partnership's status as a registered limited liability partnership, the Secretary of State shall serve the limited liability partnership with a written notice of that determination as required by subsection 8.

[ 2007, c. 323, Pt. E, §4 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Revocation.** The partnership's status as a registered limited liability partnership is revoked if within 60 days after the notice under subsection 1 was issued and is perfected under subsection 8 the Secretary of State determines that the registered limited liability partnership has failed to correct the ground or grounds for revocation. The Secretary of State shall send notice to the partnership at the address of the registered agent of the registered limited liability partnership's as required by subsection 8 that recites the ground or grounds for revocation of the partnership's status as a registered limited liability partnership and the effective date of revocation.

[ 2007, c. 323, Pt. E, §5 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**3. Effect of revocation of status as registered limited liability partnership.** A partnership whose status as a registered limited liability partnership has been revoked continues its existence but must be treated as a general partnership without that limited liability partnership status.

[ 2003, c. 631, §67 (NEW) .]

**4. Validity of contracts; right to be sued; right to defend suit.** The revocation of the status of a partnership as a registered limited liability partnership under this section does not impair:

A. The existence of the partnership; [2003, c. 631, §67 (NEW) .]

B. The validity of any contract or act of the registered limited liability partnership; [2003, c. 631, §67 (NEW) .]

C. The right of any other party to the contract to maintain any action, suit or proceeding on the contract; [2003, c. 631, §67 (NEW) .]

D. The right of the registered limited liability partnership to defend any action, suit or proceeding in any court of this State; or [2003, c. 631, §67 (NEW) .]

E. The liabilities of the partners with regard to events, acts or omissions occurring before the date of revocation. [2003, c. 631, §67 (NEW) .]

[ 2003, c. 631, §67 (NEW) .]

**5. Authority of registered agent.** The revocation of the status of a partnership as a registered limited liability partnership does not terminate the authority of its registered agent.

[ 2003, c. 631, §67 (NEW) .]

**6. Protecting limited liability partnership name after revocation.** The name of a limited liability partnership remains in the Secretary of State's record of limited liability partnership names and is protected for a period of 3 years following revocation.

[ 2003, c. 631, §67 (NEW) .]

**7. Notice to Superintendent of Financial Institutions in case of financial institution or credit union.**

In the case of a financial institution authorized to do business in this State or a credit union authorized to do business in this State, as defined in Title 9-B, the Secretary of State shall notify the Superintendent of Financial Institutions within a reasonable time prior to revoking the status of a financial institution or credit union as a registered limited liability partnership under this section.

[ 2003, c. 631, §67 (NEW) .]

**8. Delivery of notice.** The Secretary of State shall send notice of its determination under subsection 1 by regular mail and the service upon the registered limited liability partnership is perfected 5 days after the Secretary of State deposits its determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent of the registered limited liability partnership.

[ 2007, c. 323, Pt. E, §6 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

## SECTION HISTORY

2003, c. 631, §67 (NEW). 2007, c. 323, Pt. E, §§4-6 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

**§808-C. REINSTATEMENT FOLLOWING REVOCATION**

**1. Application for reinstatement.** A partnership whose status as a registered limited liability partnership has been revoked under section 808-B may apply to the Secretary of State for reinstatement within 6 years after the effective date of revocation. The application must:

A. State the name of the registered limited liability partnership and the effective date of its revocation; [2003, c. 631, §67 (NEW).]

B. State that the ground or grounds for revocation either did not exist or have been eliminated; and [2003, c. 631, §67 (NEW).]

C. State that the registered limited liability partnership's name satisfies the requirements of section 803-A. [2003, c. 631, §67 (NEW).]

[ 2003, c. 631, §67 (NEW) .]

**2. Reinstatement after revocation.** If the Secretary of State determines that the application contains the information required under subsection 1 and is accompanied by the reinstatement fee set forth in section 871, subsection 7-A, and that the information is correct, the Secretary of State shall cancel the revocation and prepare a notice of reinstatement that recites that determination and the effective date of reinstatement. The Secretary of State shall use the procedures set forth in section 808-B, subsection 8 to deliver the notice to the registered limited liability partnership.

[ 2007, c. 323, Pt. E, §7 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**3. Effect of reinstatement.** When the reinstatement is effective under subsection 2, it relates back to and takes effect as of the effective date of the revocation, and the registered limited liability partnership resumes business as if the revocation had not occurred.

[ 2003, c. 631, §67 (NEW) .]

## SECTION HISTORY

2003, c. 631, §67 (NEW). 2007, c. 323, Pt. E, §7 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §808-D. APPEAL FROM DENIAL OF REINSTATEMENT

**1. Denial of reinstatement.** If the Secretary of State denies a partnership's application for reinstatement following revocation, the Secretary of State shall serve the domestic limited liability partnership under section 808-B, subsection 8 with a written notice that explains the reason or reasons for denial.

[ 2007, c. 323, Pt. E, §8 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Appeal.** A partnership may appeal a denial of reinstatement under subsection 1 to the Superior Court of the county where the partnership's principal office is located or, if there is no principal office in this State, in Kennebec County within 30 days after the date of the notice of denial. The partnership appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's notice of revocation, the partnership's application for reinstatement and the Secretary of State's notice of denial.

[ 2003, c. 631, §67 (NEW) .]

**3. Court action.** The court may summarily order the Secretary of State to reinstate a partnership's status as a registered limited liability partnership or may take other action the court considers appropriate.

[ 2003, c. 631, §67 (NEW) .]

**4. Final decision.** The court's final decision in an appeal under this section may be appealed as in other civil proceedings.

[ 2003, c. 631, §67 (NEW) .]

### SECTION HISTORY

2003, c. 631, §67 (NEW). 2007, c. 323, Pt. E, §8 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §808-E. REINSTATEMENT OF REGISTERED LIMITED LIABILITY PARTNERSHIP STATUS

**1. Reinstatement after revocation.** A partnership whose status as a registered limited liability partnership that was revoked before July 1, 2004 may apply to the Secretary of State for reinstatement and the reinstatement may be granted, if:

A. The Secretary of State determines that the application contains the information required under section 808-C, subsection 1; [2003, c. 631, §67 (NEW) .]

B. The application for reinstatement is accompanied by the reinstatement fee set forth in section 871, subsection 7-A; and [2003, c. 631, §67 (NEW) .]

C. The application for reinstatement is received by the Secretary of State by June 30, 2010. [2003, c. 631, §67 (NEW) .]

[ 2003, c. 631, §67 (NEW) .]

**2. Effect on partnership failing to reinstate by June 30, 2010.** A partnership that fails to meet the requirements of subsection 1 may not reinstate.

[ 2003, c. 631, §67 (NEW) .]

**3. Protecting limited liability partnership name after revocation.** The name of a partnership whose status as a registered limited liability partnership is revoked remains in the Secretary of State's record of limited liability partnership names and is protected for a period of 3 years following revocation.

[ 2003, c. 631, §67 (NEW) .]

#### SECTION HISTORY

2003, c. 631, §67 (NEW).

### **§809. SERVICE OF PROCESS UPON REGISTERED LIMITED LIABILITY PARTNERSHIP**

*(REPEALED)*

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2007, c. 323, Pt. E, §9 (RP). 2007, c. 323, Pt. G, §4 (AFF).

### **§809-A. SERVICE OF PROCESS UPON REGISTERED LIMITED LIABILITY PARTNERSHIP**

Service of process, notice or demand required or permitted by law on a registered limited liability partnership is governed by Title 5, section 113. [2007, c. 323, Pt. E, §10 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

#### SECTION HISTORY

2007, c. 323, Pt. E, §10 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

### **§810. SERVICE OF NONRESIDENT PARTNERS OF REGISTERED LIMITED LIABILITY PARTNERSHIPS**

**1. Secretary of State; agent to receive service.** Each partner of a registered limited liability partnership who is a nonresident of this State or who becomes a nonresident is deemed to have appointed the Secretary of State as an agent to receive service of process upon that partner in an action or proceeding relating to actions of a registered limited liability partnership that arises while that partner was serving in that capacity.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Method of serving process.** Service of process upon the Secretary of State must be made in the same manner as provided by the Maine Rules of Civil Procedure, Rule 4(d)(8), as amended, in the case of service upon the Secretary of State as an agent of a foreign limited liability partnership.

A copy of the process must be mailed to the nonresident partner at the business, residence or mailing address of the partner shown on the limited liability partnership's certificate or most recent annual report.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Service on nonresident partner.** Service under this section also may be made by delivery of a copy of the process to the nonresident partner at the partner's address outside the State. Proof of that delivery must be made by affidavit of the person making delivery and the affidavit must be filed with the clerk of the court in which the action or proceeding is pending.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §811. NATURE OF PROFESSIONAL LIMITED LIABILITY PARTNERSHIP BUSINESS

A limited liability partnership may be registered under this Act for any lawful purpose. A professional limited liability partnership, as defined in Title 13, section 723, subsection 6, is subject to the Maine Professional Service Corporation Act except as follows. [2005, c. 543, Pt. B, §1 (AMD); 2005, c. 543, Pt. B, §15 (AFF).]

**1. Not applicable.** Title 13, sections 721, 722, 733, 736, 751, 762 and 763, section 771, subsection 2, paragraph A and section 772 do not apply.

[ 2005, c. 302, §17 (AMD) .]

**2. Application.** All references to:

A. Shareholders are deemed to be references to partners; [1995, c. 633, Pt. B, §1 (NEW) .]

B. Corporations or corporations organized or incorporated under the Professional Service Corporation Act are deemed to be references to professional limited liability partnerships; and [1995, c. 633, Pt. B, §1 (NEW) .]

C. Stock are deemed to be references to partnership interests. [1995, c. 633, Pt. B, §1 (NEW) .]

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Revocation.** Any provision for the forfeiture of articles of incorporation or dissolution is deemed to provide for revocation of the status of the partnership as a limited liability partnership.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

### SECTION HISTORY

1995, c. 633, §B1 (NEW). RR 2001, c. 2, §C7 (AFF). RR 2001, c. 2, §C5 (COR). 2005, c. 302, §17 (AMD). 2005, c. 543, §B1 (AMD). 2005, c. 543, §B15 (AFF).

## §812. RULES

The Secretary of State may adopt rules consistent with this chapter pertaining to the filing of documents with the Secretary of State. These rules may include, but are not limited to: [1995, c. 633, Pt. B, §1 (NEW) .]

**1. Forms.** Prescribing forms for documents required or permitted to be delivered for filing under this chapter and refusing to file documents not utilizing these prescribed forms;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Disapproved filing.** Disapproving the filing of a document that is not clearly legible or one that may not be clearly reproducible photographically;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Appointed designee.** Appointing a designee or other agent to receive documents for filing and to file documents on behalf of the Secretary of State;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**4. Electronic filing; facsimile signatures.** Permitting the filing of documents by electronic transmission and permitting facsimile signatures on documents to be filed;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**5. Definition of deceptively similar.**

[ 2003, c. 631, §68 (RP) .]

**6. Effective dates of filings.** Unless specifically stated in this chapter, setting forth the effective dates of filings required by this chapter; and

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**7. Annual report filing date.** Providing alternative dates for filing annual reports and for determining the dates covered by those reports.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

SECTION HISTORY

1995, c. 633, §B1 (NEW). 2003, c. 631, §68 (AMD).

## §813. EXPEDITED SERVICE

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. Fees collected for expedited service must be deposited into a fund for use by the Secretary of State to provide an improved filing service. [1995, c. 633, Pt. B, §1 (NEW).]

SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §814. ACCESS TO DATABASE

The Secretary of State may provide public access to the database through a dial-in modem, through public terminals and through electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures. [1995, c. 633, Pt. B, §1 (NEW).]

SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §815. PUBLICATIONS

**1. Fee for publications.** The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of those publications.

[ 1995, c. 633, Pt. B, §1 (NEW) .]



**2. Use of fees.** Fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State to replace and update publications offered in accordance with this chapter and to fund new publications.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §816. ROUTINE TECHNICAL RULES

Rules adopted pursuant to this chapter, unless expressly designated otherwise, are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §817. CERTIFICATE OF EXISTENCE; CERTIFICATE OF AUTHORITY; CERTIFICATE OF FACT

**1. Application.** Any person may apply to the Secretary of State for a certificate of existence for a registered limited liability partnership or a certificate of authority for a foreign limited liability partnership.

[ 2003, c. 631, §69 (NEW) .]

**2. Contents.** A certificate of existence or certificate of authority under subsection 1 sets forth:

A. The limited liability partnership's name used in this State; [2003, c. 631, §69 (NEW).]

B. That, if a registered limited liability partnership, the registered limited liability partnership is duly registered under the laws of this State and the date of its registration; [2003, c. 631, §69 (NEW).]

C. That, if a foreign limited liability partnership, the foreign limited liability partnership is authorized to transact business in this State, the date on which the limited liability partnership was authorized to transact business in this State and its jurisdiction of organization; [2003, c. 631, §69 (NEW).]

D. That all fees and penalties owed to this State have been paid if:

(1) Payment is reflected in the records of the Secretary of State; and

(2) Nonpayment affects the existence or authorization of the registered or foreign limited liability partnership; [2003, c. 631, §69 (NEW).]

E. That the registered or foreign limited liability partnership's most recent annual report required by section 873 has been delivered to the Secretary of State; and [2003, c. 631, §69 (NEW).]

F. Any facts of record in the office of the Secretary of State that may be requested by the applicant under subsection 1. [2003, c. 631, §69 (NEW).]

[ 2003, c. 631, §69 (NEW) .]

**3. Evidence of existence or authority.** Subject to any qualification stated in the certificate under subsection 2, a certificate of existence or certificate of authority issued by the Secretary of State may be relied upon as conclusive evidence that the registered or foreign limited liability partnership is in existence or is authorized to transact business in this State.

[ 2003, c. 631, §69 (NEW) .]

**4. Certificate of fact.** In addition to the certificate authorized under subsection 2, the Secretary of State may issue a certificate attesting to any fact of record in the office of the Secretary of State that may be requested by the applicant under subsection 1.

[ 2003, c. 631, §69 (NEW) .]

#### SECTION HISTORY

2003, c. 631, §69 (NEW).

### Subchapter 2: REGISTRATION HEADING: PL 1995, C. 633, PT. B, §1 (NEW)

## §821. REGISTRATION

A partnership formed under the Uniform Partnership Act may be registered as a registered limited liability partnership by signing and filing a certificate of limited liability partnership with the Secretary of State. [1995, c. 633, Pt. B, §1 (NEW).]

**1. Filing of certificate.** A partnership formed under the Uniform Partnership Act may be registered as a registered limited liability partnership by signing and filing a certificate of limited liability partnership with the Secretary of State.

[ 2005, c. 543, Pt. B, §2 (NEW); 2005, c. 543, Pt. B, §15 (AFF) .]

**2. Terms and conditions.** The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, by the vote necessary to amend those provisions.

[ 2005, c. 543, Pt. B, §2 (NEW); 2005, c. 543, Pt. B, §15 (AFF) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2005, c. 543, §B15 (AFF). 2005, c. 543, §B2 (RPR).

## §822. CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP

**1. Certificate of limited liability partnership.** In order to register a limited liability partnership, a certificate of limited liability partnership must be filed with the Secretary of State. The certificate must set forth:

A. The name of the registered limited liability partnership; [1995, c. 633, Pt. B, §1 (NEW) .]

B. The information required by Title 5, section 105, subsection 1; [2007, c. 323, Pt. E, §11 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

C. The name and the business, residence or mailing address of the contact partner; [2005, c. 543, Pt. B, §3 (AMD); 2005, c. 543, Pt. B, §15 (AFF) .]

C-1. The street address of the partnership's chief executive office and, if different, the street address of an office in the State, if any; and [2005, c. 543, Pt. B, §4 (NEW); 2005, c. 543, Pt. B, §15 (AFF) .]

D. Any other matters the partners determine to include in the certificate. [1995, c. 633, Pt. B, §1 (NEW) .]

[ 2007, c. 323, Pt. E, §11 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Effective date.** A partnership becomes a registered limited liability partnership at the time of the filing of the initial certificate of limited liability partnership with the Secretary of State if there has been substantial compliance with the requirements of this section.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Errors; later changes.** The status of a partnership as a limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the certificate under subsection 1.

[ 2005, c. 543, Pt. B, §5 (NEW); 2005, c. 543, Pt. B, §15 (AFF) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2005, c. 543, §§B3-5 (AMD). 2005, c. 543, §B15 (AFF). 2007, c. 323, Pt. E, §11 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §823. AMENDMENT TO CERTIFICATE

**1. Certificate of amendment.** The certificate of limited liability partnership is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment must set forth:

A. The name of the registered limited liability partnership; and [1995, c. 633, Pt. B, §1 (NEW) .]

B. The amendment or amendments to the certificate. [1995, c. 633, Pt. B, §1 (NEW) .]

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Inaccuracies.** A partner who becomes aware that a statement in the certificate of limited liability partnership or any certificate filed under this section has become inaccurate in any material respect as a result of subsequent events shall promptly amend the certificate.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Amendment required.** An amendment to the certificate of limited liability partnership reflecting the event or events must be filed by a partner no later than 90 days after the following event or events occur:

A. A change in the name of the registered limited liability partnership; [1995, c. 633, Pt. B, §1 (NEW) .]

B. [2007, c. 323, Pt. E, §12 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

B-1. A change in the registered agent except as provided in Title 5, section 109 or 110 for a change in the current name, address or identity of the registered agent or as provided in Title 5, section 111 for the resignation of the registered agent; [2007, c. 323, Pt. E, §13 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

C. A partner becomes aware that the certificate of limited liability partnership contains a false or an erroneous statement; or [1995, c. 633, Pt. B, §1 (NEW) .]

D. A change in the name or the address of the contact partner. [1995, c. 633, Pt. B, §1 (NEW) .]

[ 2007, c. 323, Pt. E, §§12, 13 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**4. Amendment not required.** An amendment to the certificate of limited liability partnership is not required as a result of a change in the number of partners of the registered limited liability partnership or in the business in which the registered limited liability partnership engages. To the extent that any partnership is

terminated by any such change and a successor partnership comes into existence, that successor partnership is covered by the prior partnership's certificate of limited liability partnership and succeeds to the status of the prior partnership as a registered limited liability partnership.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**5. Right to amend at any time.** Except as otherwise provided in the certificate of limited liability partnership, a certificate of limited liability partnership may be amended at any time for any other purpose.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**6. Restated certificate of limited liability partnership.** A registered limited liability partnership may at any time file a restatement of its certificate of limited liability partnership that integrates into a single document the provisions of its certificate of limited liability partnership giving effect to all amendments previously adopted and, if authorized, further amendments. The restated certificate of limited liability partnership, either in the heading or in an introductory paragraph, must set forth:

- A. That it is a restatement; [1995, c. 633, Pt. B, §1 (NEW) .]
- B. The registered limited liability partnership's present name; [1995, c. 633, Pt. B, §1 (NEW) .]
- C. If the name has been changed, the name under which it was originally filed; and [1995, c. 633, Pt. B, §1 (NEW) .]
- D. The date of filing of the initial certificate of limited liability partnership. [1995, c. 633, Pt. B, §1 (NEW) .]

The restated certificate of limited liability partnership must be executed and filed in the manner provided for any other amendment to the certificate of limited liability partnership. Upon filing of the restated certificate of limited liability partnership by the Secretary of State, the restatement, including further amendments made as a result of the restatement, constitutes the certificate of the limited liability partnership pursuant to section 822.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1999, c. 594, §28 (AMD). 2007, c. 323, Pt. E, §§12, 13 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §824. CERTIFICATE OF CORRECTION

A partner who becomes aware that any statement in a certificate of limited liability partnership or any certificate filed under this chapter was inaccurate when made shall file a certificate of correction with the Secretary of State. The certificate of correction must specify the inaccuracy or defect to be corrected and set forth the portion of the instrument in corrected form. The corrected instrument is effective as of the date the original instrument was filed, except for those persons who are substantially and adversely affected by the correction. For those persons, the corrected instrument is effective from the filing date. [1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §825. CERTIFICATE OF RENUNCIATION

**1. Renunciation of status.** A partnership may renounce its status as a registered limited liability partnership by filing a certificate of renunciation with the Secretary of State, setting forth:

- A. The name of the registered limited liability partnership; [1995, c. 633, Pt. B, §1 (NEW).]
- B. The date of filing of its certificate of limited liability partnership; [1995, c. 633, Pt. B, §1 (NEW).]
- C. The reason for filing the certificate of renunciation; [1995, c. 633, Pt. B, §1 (NEW).]
- D. The future effective date or time of renunciation, which must be a date or time not more than 90 days after the filing of the certificate, if it is not to be effective upon the filing of the certificate; and [2009, c. 56, §22 (AMD).]
- E. Any other information the person filing the certificate of renunciation determines necessary. [1995, c. 633, Pt. B, §1 (NEW).]

[ 2009, c. 56, §22 (AMD) .]

**2. Effect of renunciation.** Renunciation of the status of a registered limited liability partnership does not affect the existence of that partnership or the liability of the partners of the partnership with regard to events, acts or omissions occurring before the date of renunciation.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Other requirements at the time of filing a certificate of renunciation of status.** At the time of filing the certificate under this section, the Secretary of State may require the limited liability partnership to file the annual report required to be filed under section 873 and pay any fees or penalties owed to the Secretary of State under section 808-A.

[ 2007, c. 231, §33 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2007, c. 231, §33 (AMD). 2009, c. 56, §22 (AMD).

## §826. EXECUTION

Each document delivered to the Secretary of State for filing pursuant to this chapter must be executed in the following manner. [1995, c. 633, Pt. B, §1 (NEW).]

**1. Signatures.** Except as provided in subsection 2, the documents must be signed as follows:

- A. In the case of the initial certificate of limited liability partnership, by one or more partners who are authorized; [2007, c. 323, Pt. E, §14 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]
- B. In the case of a certificate of amendment, restatement, certificate of correction or any other document filed under this chapter not otherwise provided for, by at least one partner; or [1995, c. 633, Pt. B, §1 (NEW).]
- C. In the case of a certificate of renunciation or other document filed after the dissolution of a registered limited liability partnership:
  - (1) If the partners are winding up the registered limited liability partnership's affairs, then by the contact partner or by a majority in interest of the partners; or
  - (2) If the partners are not winding up the registered limited liability partnership's affairs, then by all liquidating trustees. [1995, c. 633, Pt. B, §1 (NEW).]

[ 2007, c. 323, Pt. E, §14 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Signature by agent.** Any person may sign any certificate or amendment to a certificate, including an attorney-in-fact. An authorization, including a power of attorney, to sign any certificate or amendment to a certificate need not be in writing, sworn to, verified or acknowledged and need not be filed with the Secretary of State, but if in writing, it must be retained by a partner.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Unsworn falsification.** The execution of a certificate containing false statements constitutes unsworn falsification under Title 17-A, section 453.

[ 1997, c. 376, §65 (RPR) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §§64,65 (AMD). 2007, c. 323, Pt. E, §14 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §827. EXECUTION OR AMENDMENT BY JUDICIAL ORDER

If a person required to execute a certificate under section 826 fails or refuses to do so, then a person who is adversely affected by the failure or refusal may petition the Superior Court to direct the execution of the certificate as follows. [1995, c. 633, Pt. B, §1 (NEW).]

**1. Certificate.** If the court finds that the certificate should be executed and that the person or persons designated to execute the certificate have failed or refused to do so, the court shall order the Secretary of State to record the appropriate certificate.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Venue.** Venue for an action under this section lies in the county in this State in which the registered office of the registered limited liability partnership is located or, if there is no registered office in this State, then in Kennebec County Superior Court.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §828. FILING

**1. Original filing.** An original signed copy of a certificate or other document authorized to be filed under a provision of this chapter must be delivered to the Secretary of State.

A. A person who executes a document as an agent or fiduciary need not exhibit evidence of authority as a prerequisite to filing. [1995, c. 633, Pt. B, §1 (NEW).]

B. Unless the Secretary of State finds that the certificate or other document on its face does not conform to law, upon receipt of all filing fees required by law, the Secretary of State shall attest that the document has been filed with the Secretary of State by endorsing on that document the word "filed" and the day, month and year of the filing and by signing or initialing that endorsement in person or by agent. If the person delivering the document for filing so requests, the endorsement must include the hour and minute of the filing of the document. [1995, c. 633, Pt. B, §1 (NEW).]

C. The endorsement is known as the "filing date" of the document and is conclusive of the date and the time, if included in the endorsement, of filing in the absence of actual fraud. [1995, c. 633, Pt. B, §1 (NEW).]

D. The Secretary of State may use an identifying mark in lieu of signing or initialing. [1995, c. 633, Pt. B, §1 (NEW).]

E. The filing date is the date first received unless otherwise specified by law or rule. [1995, c. 633, Pt. B, §1 (NEW).]

F. The Secretary of State shall file and index the original copy. [1995, c. 633, Pt. B, §1 (NEW).]

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Attested copy.** The Secretary of State shall promptly make a copy of the original certificate or document and attest that copy by marking upon it the same endorsement that is required to appear upon the original, together with a further endorsement that the copy is a true copy of the original document. The attested copy must be returned to the person submitting the document for filing or to that person's representative.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §829. MATERIALLY INACCURATE STATEMENT

**1. Liability.** If the certificate of renunciation, certificate of limited liability partnership or certificate of amendment contains a materially inaccurate statement, a person who suffers loss by reasonable reliance on the statement may recover damages for the loss from:

A. A partner who executes the certificate and knew or should have known that the statement was inaccurate in a material respect at the time the certificate was executed; and [1995, c. 633, Pt. B, §1 (NEW).]

B. A partner who thereafter knows that an arrangement or other fact described in the certificate is inaccurate in any material respect or has changed, making the statement inaccurate in any material respect, if that partner had sufficient time to amend or cancel the certificate or to file a petition for the amendment or cancellation before the statement was reasonably relied upon. [1995, c. 633, Pt. B, §1 (NEW).]

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Exception.** Notwithstanding subsection 1, a partner does not have liability for failing to cause the amendment or renunciation of a certificate to be filed or failing to file a petition for amendment or renunciation pursuant to subsection 1 if the certificate of amendment, certificate of renunciation or petition is filed within 90 days of the date that partner knew or should have known the certificate was inaccurate in any material respect.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §830. NOTICE

The fact that a certificate of limited liability partnership is on file with the Secretary of State constitutes notice of facts set forth in the certificate that are required by section 822, subsection 1 and by section 823, subsection 6. [1995, c. 633, Pt. B, §1 (NEW).]

### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## Subchapter 3: FOREIGN LIMITED LIABILITY PARTNERSHIPS

### HEADING: PL 1995, C. 633, PT. B, §1 (NEW)

## §851. LAWS GOVERNING FOREIGN LIMITED LIABILITY PARTNERSHIPS

**1. Laws governing.** Unless otherwise provided by the Constitution of Maine:

A. The laws of the state or country under which a foreign limited liability partnership is organized govern its organization and internal affairs and the liability of its partners, provided that each partner, employee or agent of a foreign limited liability partnership who performs professional services in this State on behalf of such a foreign limited liability partnership is personally and fully liable for any omission, negligence, wrongful act, misconduct or malpractice by that person or any person under that person's direct supervision and control arising out of those professional services performed in this State; and [1995, c. 633, Pt. B, §1 (NEW).]

B. A foreign limited liability partnership may not be denied the authority to do business by reason of a difference between the laws referred to in this subsection and the laws of this State. [1995, c. 633, Pt. B, §1 (NEW).]

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Type of business.** A foreign limited liability partnership may transact any business in this State that may be transacted by a registered limited liability partnership.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §852. AUTHORITY TO DO BUSINESS REQUIRED; APPLICATION

Before doing business in this State, a foreign limited liability partnership must obtain authority to do business from the Secretary of State. [1995, c. 633, Pt. B, §1 (NEW).]

**1. Definitions.** As used in this subchapter, "doing business," "the doing of business" or "business done in this State" by a foreign limited liability partnership means the course or practice of carrying on any business activities in this State. For purposes of this subsection, a foreign limited liability partnership is not considered to be transacting business in this State solely for carrying on one or more of the following activities:

A. Maintaining or defending any action or administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes; [1995, c. 633, Pt. B, §1 (NEW) .]

B. Holding meetings of its partners or carrying on other activities concerning its internal affairs; [1995, c. 633, Pt. B, §1 (NEW).]



C. Maintaining bank accounts, share accounts in savings and loan associations, custodial or agency arrangements with a bank or trust company or stock or bond brokerage accounts; [1995, c. 633, Pt. B, §1 (NEW).]

D. Maintaining offices or agencies for the transfer, exchange and registration of its interests or appointing and maintaining trustees or depositories with relation to its interests; [1995, c. 633, Pt. B, §1 (NEW).]

E. Effecting sales through independent contractors; [1995, c. 633, Pt. B, §1 (NEW).]

F. Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, when the orders require acceptance outside this State before becoming binding contracts and when the contracts do not involve any local performance other than delivery and installation; [1995, c. 633, Pt. B, §1 (NEW).]

G. Making loans or creating or acquiring evidence of debt, mortgages or liens on real or personal property or recording the debts, mortgages or liens; [1995, c. 633, Pt. B, §1 (NEW).]

H. Securing or collecting debts or enforcing any rights in property securing those debts; [1995, c. 633, Pt. B, §1 (NEW).]

I. Effecting transactions in interstate or foreign commerce; [1995, c. 633, Pt. B, §1 (NEW).]

J. Owning or controlling a subsidiary corporation incorporated in or transacting business within this State; [1995, c. 633, Pt. B, §1 (NEW).]

K. Owning or controlling a general or limited partnership or a limited liability company organized or transacting business within this State; [1995, c. 633, Pt. B, §1 (NEW).]

L. Conducting an isolated transaction not in the course of a number of repeated similar transactions; [1995, c. 633, Pt. B, §1 (NEW).]

M. Serving as trustee, executor, administrator or guardian or in like fiduciary capacity as permitted by the laws of this State; or [1995, c. 633, Pt. B, §1 (NEW).]

N. Being a partner in a registered limited partnership or a domestic general partnership or a member in a limited liability company. [2011, c. 113, Pt. B, §1 (AMD).]

This subsection is not intended to exclude other activities that do not constitute transacting business in this State.

[ 2011, c. 113, Pt. B, §1 (AMD) .]

**2. Execution.** The foreign limited liability partnership shall submit to the Secretary of State an application for authority to do business, executed by a person with authority to do so under the laws of the state or other jurisdiction of its formation on a form prescribed by or furnished by the Secretary of State.

[ 2007, c. 323, Pt. E, §15 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**3. Contents of the application.** The application must include:

A. The name of the foreign limited liability partnership and, if different, the name under which that partnership proposes to apply for authority to do business in this State; [1995, c. 633, Pt. B, §1 (NEW).]

B. The state or country where organized, the date of its organization and a statement that, as of the date of filing, the foreign limited liability partnership validly exists as a limited liability partnership under the laws of the jurisdiction of its organization; [1995, c. 633, Pt. B, §1 (NEW).]

C. The nature of the business or purposes to be conducted or promoted in this State; [1995, c. 633, Pt. B, §1 (NEW).]

D. The information required by Title 5, section 105, subsection 1; [2007, c. 323, Pt. E, §16 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

E. [2007, c. 323, Pt. E, §17 (RP); 2007, c. 323, Pt. G, §4 (AFF).]

F. The name and business, residence or mailing address of the contact partner; [1995, c. 633, Pt. B, §1 (NEW).]

G. The date on which the foreign limited liability partnership first did, or intends to do, business in this State; [1995, c. 633, Pt. B, §1 (NEW).]

H. A certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized. In lieu of a certificate of existence, a copy of the foreign limited liability partnership's registration certified or stamped by the secretary of state or other proper officer in its domestic jurisdiction is a sufficient equivalent if such an officer does not produce any other type of certificate of existence. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing; [2005, c. 302, §18 (AMD).]

I. The address of the registered or principal office of the limited liability partnership in the jurisdiction of its organization or the principal office wherever located; and [2005, c. 302, §19 (AMD).]

J. In the case of a professional limited liability partnership, the professional service or services to be rendered in the State and a statement that all its partners are licensed in one or more states to render a professional service disclosed in its application. [2005, c. 302, §20 (NEW).]

[ 2007, c. 323, Pt. E, §§16, 17 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §§66,67 (AMD). 2003, c. 344, §C42 (AMD). 2005, c. 302, §§18-20 (AMD). 2007, c. 323, Pt. E, §§15-17 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2011, c. 113, Pt. B, §1 (AMD).

### §853. EVIDENCE OF AUTHORITY TO DO BUSINESS

If the Secretary of State finds that an application for the authority to do business conforms to the requirements of this chapter and all requisite fees have been paid, the Secretary of State shall: [1995, c. 633, Pt. B, §1 (NEW).]

#### 1. Attest application. Attest that the application has been filed by:

A. Endorsing upon the original application the word "filed" and the day, month and year of the filing. The person delivering the application for filing may have the endorsement include the hour and minute of the filing of the application. This endorsement is conclusive of the date and time, if included in the endorsement, and of its filing in the absence of actual fraud; and [1995, c. 633, Pt. B, §1 (NEW).]

B. Signing, initialing or placing an identifying mark on the endorsement in paragraph A in person or by agent; [1995, c. 633, Pt. B, §1 (NEW).]

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### 2. File the application. File and index the endorsed application; and

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Copy to limited liability partnership.** Furnish to the person submitting the document for filing, or that person's representative, an attested copy of the application.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §854. NAME; REGISTERED OFFICE; REGISTERED AGENT

**1. Name.** A foreign limited liability partnership may apply to the Secretary of State to do business in this State under a name that conforms with the requirements of section 803-A, subsection 1. The name need not be the same as the name under which it is authorized to do business in the jurisdiction of its organization.

[ 2003, c. 344, Pt. C, §43 (AMD) .]

### **2. Registered office and registered agent.**

[ 2007, c. 323, Pt. E, §18 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

#### **2-A. Acceptance of designation of agent.**

[ 2007, c. 323, Pt. E, §19 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

**2-B. Registered agent.** Each foreign limited liability partnership must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.

[ 2007, c. 535, Pt. B, §9 (NEW) .]

### **3. Change in registered office or registered agent.**

[ 2007, c. 323, Pt. E, §20 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

### **4. Resignation of registered agent.**

[ 2007, c. 323, Pt. E, §21 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

### **5. Secretary of State.**

[ 2007, c. 323, Pt. E, §22 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

### **6. Resignation of agent; appointment by foreign limited liability partnership; service of process.**

[ 2007, c. 323, Pt. E, §23 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §68 (AMD). 2001, c. 66, §4 (AMD). 2003, c. 344, §C43 (AMD). 2005, c. 529, §8 (AMD). 2007, c. 323, Pt. E, §§18-23 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2007, c. 535, Pt. B, §9 (AMD).

## §855. AMENDMENTS TO APPLICATION

If any statement in the application for authority to do business of a foreign limited liability partnership requires change as a result of subsequent events, the foreign limited liability partnership shall promptly file with the Secretary of State a certificate executed by a partner amending the statement. [1995, c. 633, Pt. B, §1 (NEW).]

### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §856. CERTIFICATE OF CORRECTION

If a statement in the application for authority to do business of a foreign limited liability partnership was materially inaccurate when made, the foreign limited liability partnership shall promptly file with the Secretary of State a certificate executed by a partner correcting the statement. The certificate of correction must specify the inaccuracy or defect to be corrected and must set forth the portion of the instrument in corrected form. The corrected instrument is effective as of the date the original instrument was filed except that for persons who are substantially and adversely affected by the correction, the corrected instrument is effective from the filing date. [1995, c. 633, Pt. B, §1 (NEW).]

### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §857. CANCELLATION OF AUTHORITY TO DO BUSINESS

A foreign limited liability partnership may cancel its authority to do business by filing with the Secretary of State a certificate of cancellation. A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited liability partnership with respect to causes of action arising out of the doing of business in this State. [1995, c. 633, Pt. B, §1 (NEW).]

### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §858. DOING BUSINESS WITHOUT AUTHORITY; TREATMENT AS GENERAL PARTNERSHIP

*(REPEALED)*

### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2005, c. 543, §B15 (AFF). 2005, c. 543, §B6 (RP).

## §858-A. EFFECT OF FAILURE TO QUALIFY

**1. No action or proceeding until granted authority; fees paid.** A foreign limited liability partnership transacting business in this State may not maintain an action or proceeding in this State until it is granted authority to do business in this State and pays to the State all fees and penalties for the years or parts of years during which it did business in this State without having been granted authority to do business.

[ 2005, c. 543, Pt. B, §7 (NEW); 2005, c. 543, Pt. B, §15 (AFF) .]

**2. Validity of contract or act; defend action or proceeding.** The failure of a foreign limited liability partnership to obtain authority to do business in this State in accordance with this chapter does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this State.

[ 2005, c. 543, Pt. B, §7 (NEW); 2005, c. 543, Pt. B, §15 (AFF) .]

**3. Limitation on personal liability.** A limitation on personal liability of a partner is not waived solely by transacting business in this State without being granted authority to do business in this State.

[ 2005, c. 543, Pt. B, §7 (NEW); 2005, c. 543, Pt. B, §15 (AFF) .]

**4. Agent for service of process.** If a foreign limited liability partnership transacts business in this State without being granted the authority to do business in this State, the Secretary of State is its agent for service of process with respect to a right of action arising out of the transaction of business in this State.

[ 2005, c. 543, Pt. B, §7 (NEW); 2005, c. 543, Pt. B, §15 (AFF) .]

#### SECTION HISTORY

2005, c. 543, §B7 (NEW). 2005, c. 543, §B15 (AFF).

## §859. DOING BUSINESS WITHOUT AUTHORITY; REVOCATION BY SECRETARY OF STATE

*(REPEALED)*

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §69 (AMD). 1999, c. 547, §B55 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 344, §C44 (AMD). 2003, c. 631, §70 (RP).

### §859-A. GROUNDS FOR REVOCATION

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 859-B to revoke the authority of a partnership as a foreign limited liability partnership authorized to do business in this State if: [2005, c. 543, Pt. B, §8 (AMD); 2005, c. 543, Pt. B, §15 (AFF).]

**1. Nonpayment of fees or penalties.** The foreign limited liability partnership does not pay when they are due any fees or penalties imposed by this chapter or other law;

[ 2003, c. 631, §71 (NEW) .]

**2. Failure to file annual report.** The foreign limited liability partnership does not deliver its annual report to the Secretary of State as required by section 873;

[ 2003, c. 631, §71 (NEW) .]

**3. Failure to pay late filing penalty.** The foreign limited liability partnership does not pay the annual report late filing penalty as required by section 874;

[ 2003, c. 631, §71 (NEW) .]

**4. Failure to maintain registered agent.** The foreign limited liability partnership is without a registered agent in this State as required by Title 5, section 105, subsection 1;

[ 2007, c. 323, Pt. E, §24 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**5. Failure to notify of change of registered agent or address.** The foreign limited liability partnership does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111;

[ 2007, c. 323, Pt. E, §25 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**6. Filing of false information.** A partner or agent of the foreign limited liability partnership signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the Secretary of State for filing;

[ 2003, c. 631, §71 (NEW) .]

**7. Amended application.** The foreign limited liability partnership fails to file with the Secretary of State an amended application for authority required by section 855; or

[ 2003, c. 631, §71 (NEW) .]

**8. Authenticated certificate.** The Secretary of State receives a duly authenticated certificate from the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized stating that the foreign limited liability partnership is no longer treated as a registered limited liability partnership in its jurisdiction of registration.

[ 2003, c. 631, §71 (NEW) .]

#### SECTION HISTORY

2003, c. 631, §71 (NEW). 2005, c. 543, §B8 (AMD). 2005, c. 543, §B15 (AFF). 2007, c. 323, Pt. E, §§24, 25 (AMD). 2007, c. 323, Pt. G, §4 (AMD).

## §859-B. PROCEDURE FOR AND EFFECT OF REVOCATION

**1. Notice of determination.** If the Secretary of State determines that one or more grounds exist under section 859-A for the revocation of authority, the Secretary of State shall serve the foreign limited liability partnership with a written notice of that determination as required by subsection 7.

[ 2007, c. 323, Pt. E, §26 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Revocation.** The foreign partnership's authority to do business is revoked if within 60 days after the notice under subsection 1 was issued the Secretary of State determines that the foreign limited liability partnership has failed to correct the ground or grounds for revocation. The Secretary of State shall send notice to the foreign partnership as required by subsection 7 that recites the ground or grounds for revocation of the foreign partnership's status as a limited liability partnership and the effective date of revocation.

[ 2007, c. 323, Pt. E, §27 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**3. Authority to transact business ceases.** The authority of a foreign limited liability partnership to transact business in this State ceases on the date of revocation of its authority unless such revocation is stayed pursuant to section 859-C, subsection 2.

[ 2005, c. 543, Pt. B, §9 (AMD); 2005, c. 543, Pt. B, §15 (AFF) .]

**4. Secretary of State appointed as agent for service of process.** The Secretary of State's revocation of a foreign limited liability partnership's authority appoints the Secretary of State as the foreign limited liability partnership's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign limited liability partnership was authorized to transact business in this State. Service of process on the Secretary of State under this subsection is service on the foreign limited liability partnership. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability partnership at its principal office shown in its most recent annual report or in any subsequent communication received from the limited liability partnership stating the current mailing address of its principal office or, if no other address is on file, in its application for authority.

[ 2003, c. 631, §71 (NEW) .]

**5. Registered agent; not terminated.** Revocation of a foreign limited liability partnership's authority to transact business in this State does not terminate the authority of the registered agent of the limited liability partnership.

[ 2003, c. 631, §71 (NEW) .]

**6. Authorization after revocation.** A foreign limited liability partnership whose authority to transact business in this State has been revoked under this section and that wishes to transact business again in this State may be requalified by applying for authority under this subchapter.

[ 2005, c. 543, Pt. B, §9 (AMD); 2005, c. 543, Pt. B, §15 (AFF) .]

**7. Delivery of notice.** The Secretary of State shall send notice of its determination under subsection 1 by regular mail and the service upon the foreign limited liability partnership is perfected 5 days after the Secretary of State deposits its determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent of the foreign limited liability partnership.

[ 2007, c. 323, Pt. E, §28 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

#### SECTION HISTORY

2003, c. 631, §71 (NEW). 2005, c. 543, §B9 (AMD). 2005, c. 543, §B15 (AFF). 2007, c. 323, Pt. E, §§26-28 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

### §859-C. APPEAL FROM REVOCATION

**1. Petition to appeal revocation.** A foreign limited liability partnership may appeal the Secretary of State's revocation of its authority to the Kennebec County Superior Court within 30 days after the notice of revocation. The foreign limited liability partnership may appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its application for authority and the Secretary of State's notice of revocation.

[ 2003, c. 631, §71 (NEW) .]

**2. Court order.** The court may summarily order the Secretary of State to reinstate the authority or may take any other action the court considers appropriate.

[ 2003, c. 631, §71 (NEW) .]

**3. Appeal of court's decision.** The court's final decision may be appealed as in other civil proceedings.

[ 2003, c. 631, §71 (NEW) .]

#### SECTION HISTORY

2003, c. 631, §71 (NEW).

### §859-D. REINSTATEMENT FOLLOWING REVOCATION

*(REPEALED)*

#### SECTION HISTORY

2003, c. 631, §71 (NEW). 2005, c. 543, §B15 (AFF). 2005, c. 543, §B10 (RP).

### §859-E. APPEAL FROM DENIAL OF REINSTATEMENT

*(REPEALED)*

#### SECTION HISTORY

2003, c. 631, §71 (NEW). 2005, c. 543, §B15 (AFF). 2005, c. 543, §B10 (RP).

### §860. EXECUTION OF DOCUMENTS; LIABILITY FOR FALSE STATEMENTS

**1. Signature.** Documents must be signed by a partner except as otherwise provided.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Unsworn falsification.** Section 826, subsection 3, governing unsworn falsification, and section 829, on liability for materially inaccurate statements, apply to foreign limited liability partnerships as if the application for authority to do business were a certificate of limited liability partnership of a registered limited liability partnership.

[ 1997, c. 376, §70 (RPR) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §70 (AMD).

### §861. SERVICE OF PROCESS ON FOREIGN LIMITED LIABILITY PARTNERSHIPS AUTHORIZED TO DO BUSINESS IN STATE

*(REPEALED)*

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 2007, c. 323, Pt. E, §29 (RP). 2007, c. 323, Pt. G, §4 (AFF).



## **§861-A. SERVICE OF PROCESS UPON FOREIGN LIMITED LIABILITY PARTNERSHIP AUTHORIZED TO DO BUSINESS IN STATE**

Service of process, notice or demand required or permitted by law on a foreign limited liability partnership authorized to transact business in this State is governed by Title 5, section 113. [2007, c. 323, Pt. E, §30 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

### **SECTION HISTORY**

2007, c. 323, Pt. E, §30 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

## **§862. SERVICE OF PROCESS ON FOREIGN LIMITED LIABILITY PARTNERSHIP NOT AUTHORIZED TO DO BUSINESS IN STATE**

**1. Service on Secretary of State.** Every foreign limited liability partnership that does business in this State without having been authorized to do business in this State submits itself to the jurisdiction of the courts of this State and designates the Secretary of State as its agent upon whom process, notice or demand upon it may be served in any action or proceeding arising out of or in connection with the doing of business in this State.

[1995, c. 633, Pt. B, §1 (NEW) .]

**2. Method of serving process.** In addition to other methods of service that may be authorized by law or by rule, service of process may be made as provided in Title 5, section 113.

[2007, c. 323, Pt. E, §31 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

### **SECTION HISTORY**

1995, c. 633, §B1 (NEW). 2007, c. 323, Pt. E, §31 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## **§863. SERVICE OF PROCESS ON SECRETARY OF STATE FOR FOREIGN LIMITED LIABILITY PARTNERSHIP**

**(REPEALED)**

When process, notice or demand is to be served on the Secretary of State as the agent of a foreign limited liability partnership pursuant to a provision of this chapter: [1995, c. 633, Pt. B, §1 (NEW).]

### **SECTION HISTORY**

1995, c. 633, §B1 (NEW). 2007, c. 323, Pt. E, §32 (RP). 2007, c. 323, Pt. G, §4 (AFF).

## **§864. ACTION BY ATTORNEY GENERAL**

**(REPEALED)**

The Superior Court has jurisdiction to enjoin a foreign limited liability partnership or any agent of the foreign limited liability partnership from doing business in this State if the foreign limited liability partnership has not been granted the authority to do business under this subchapter. The Attorney General may file a complaint in any county in which the foreign limited liability partnership is doing or has done business for the purpose of obtaining an injunction under this section. [2005, c. 543, Pt. B, §11 (NEW); 2005, c. 543, Pt. B, §15 (AFF).]

### **SECTION HISTORY**

2005, c. 543, §B11 (NEW). 2005, c. 543, §B15 (AFF). 2007, c. 323, Pt. E, §33 (RP). 2007, c. 323, Pt. G, §4 (AFF).

## Subchapter 4: MISCELLANEOUS HEADING: PL 1995, C. 633, PT. B, §1 (NEW)

### §871. FEES; PENALTIES

A document filed under this chapter is not effective until the applicable fee required in this section is paid. The following fees or penalties must be paid to the Secretary of State: [1995, c. 633, Pt. B, §1 (NEW).]

**1. Reservation.** For filing an application for reservation of name or a notice of transfer or cancellation of reservation pursuant to section 804-A, a fee of \$20 for each limited liability partnership affected;

[ 2003, c. 344, Pt. C, §45 (AMD) .]

**2. Assumed or fictitious name.** For filing an application for an assumed name under section 805-A, a fee of \$125, and for filing an application for a fictitious name under section 805-A, a fee of \$40;

[ 2003, c. 673, Pt. WWW, §30 (AMD); 2003, c. 673, Pt. WWW, §37 (AFF) .]

**3. Termination of assumed or fictitious name.** For filing a termination of an assumed or fictitious name under section 805-A, subsection 8, a fee of \$20;

[ 2003, c. 344, Pt. C, §46 (AMD) .]

**4. Registered name.** For filing an application for a registered name of a foreign limited liability partnership under section 806-A, a fee of \$20 per month for the number of months or fraction of a month remaining in the calendar year when first filing; and for filing an application to renew the registration of a registered name, the fee is \$200;

[ 2007, c. 231, §34 (AMD) .]

#### **5. Termination of registered name.**

[ 2003, c. 344, Pt. C, §47 (RP) .]

#### **6. Change of registered agent and registered office or registered office for registered limited liability partnerships.**

[ 2007, c. 323, Pt. E, §34 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

#### **7. Penalty.**

[ 2003, c. 631, §72 (RP) .]

**7-A. Reinstatement fee after revocation.** For failure to file an annual report, a fee of \$150, to a maximum fee of \$600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of \$150; for failure to appoint or maintain a registered agent, a fee of \$150; for failure to notify the Secretary of State that its registered agent or the address of its registered agent has been changed or that its registered agent has resigned, a fee of \$150; for failure to file an amended application, a fee of \$150; and for filing false information, a fee of \$150;

[ 2007, c. 323, Pt. E, §35 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**8. Certificate of limited liability partnership, amendment or renunciation.** For filing a certificate of limited liability partnership under section 822, a fee of \$175; a certificate of amendment under section 823, except as provided in subsection 6, the fee is \$50, or a certificate of renunciation under section 825, a fee of \$75. For filing a certificate of amendment under section 823 to change the name or address of the contact partner, the fee is \$20 and for filing a restated certificate of limited liability partnership under section 823, subsection 6, the fee is \$80;

[ 2003, c. 673, Pt. WWW, §32 (AMD); 2003, c. 673, Pt. WWW, §37 (AFF) .]

**9. Certificate of correction.** For filing a certificate of correction under section 824, a fee of \$50;

[ 2003, c. 673, Pt. WWW, §33 (AMD); 2003, c. 673, Pt. WWW, §37 (AFF) .]

**10. Foreign limited liability partnerships.** For filing an application for authority to do business as a foreign limited liability partnership under section 852, a fee of \$250; a certificate of amendment under section 855, except as provided in subsection 12, or a certificate of cancellation under section 857, a fee of \$90. For filing a certificate of amendment under section 855 to change the address of the registered or principal office or to change the name or address of the contact partner, the fee is \$35;

[ 2003, c. 673, Pt. WWW, §34 (AMD); 2003, c. 673, Pt. WWW, §37 (AFF) .]

**11. Certificate of correction for foreign limited liability partnerships.** For filing a certificate of correction under section 856, a fee of \$50;

[ 2003, c. 673, Pt. WWW, §35 (AMD); 2003, c. 673, Pt. WWW, §37 (AFF) .]

**12. Change of registered agent and registered office or registered office for foreign limited liability partnerships.**

[ 2007, c. 323, Pt. E, §36 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

**13. Photocopies.** For all photocopies, whether certified or not, a fee of \$2 per page. The Secretary of State may issue photocopies of instruments on file, as well as other copies;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**14. Certified copies.** For providing certified copies of any paper on file as provided for by this chapter, a fee of \$5 for each copy certified, in addition to any fee due under subsection 13;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**15. Issuing certificate.** For issuing a certificate of existence, certificate of authority or certificate of fact as provided by section 817, a fee in the amount of \$30;

[ 2003, c. 631, §74 (RPR) .]

**16. Preclearance of document.** For preclearance of a document for filing, a fee of \$100;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**17. All other filings.** For receiving and filing of a certificate, affidavit, agreement or any other paper provided for by this chapter for which a fee is not specifically prescribed, a fee of \$20;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**18. Annual report.** For filing of an annual report under section 873, a fee of \$85;

[ 2005, c. 397, Pt. A, §39 (AFF); 2005, c. 397, Pt. A, §38 (RPR) .]

**18-A. (REALLOCATED TO T. 31, §871, sub-§18-B) Amended annual report.**

[ 2003, c. 2, §97 (RAL); 2003, c. 631, §76 (NEW) .]

**18-A. Annual report.** For filing of an annual report for a foreign limited liability partnership under section 874, a fee of \$150;

[ 2003, c. 673, Pt. XXX, §9 (NEW); 2003, c. 673, Pt. XXX, §10 (AFF) .]

**18-B. (REALLOCATED FROM T. 31, §871, sub-§18-A) Amended annual report.** For filing an amended annual report under section 873-A, for a domestic limited liability partnership, a fee of \$85; for a foreign limited liability partnership, a fee of \$150;

[ 2005, c. 529, §9 (AMD) .]

**19. Information request.**

[ 2003, c. 631, §77 (RP) .]

**20. Service of process on Secretary of State as agent.** For accepting service of process under section 810 or 862, a fee of \$20; and

[ 2007, c. 323, Pt. E, §37 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**21. Report of name search.**

[ 2003, c. 344, Pt. C, §48 (RP) .]

**22. Late filing penalty.** For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of \$50.

[ 2005, c. 12, Pt. FF, §14 (AMD) .]

All fees collected as provided by this chapter must be remitted to the Treasurer of State for the use of the State with the exception of those fees established by rule and collected for expedited service. Fees for expedited service are deposited into a fund for use by the Secretary of State in providing an improved filing service. [1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §§71, 72 (AMD). 1997, c. 633, §§22, 23 (AMD). 1999, c. 594, §29 (AMD). 1999, c. 638, §§42, 43 (AMD). RR 2003, c. 2, §97 (COR). 2003, c. 344, §§C45-48 (AMD). 2003, c. 631, §§72-78 (AMD). 2003, c. 673, §§WWW30-36 (AMD). 2003, c. 673, §§WWW37 (AFF). 2003, c. 673, §§XX8, 9 (AMD). 2003, c. 673, §§XX10 (AFF). 2005, c. 12, §§FF12-14 (AMD). 2005, c. 397, §A38 (AMD). 2005, c. 397, §A39 (AFF). 2005, c. 529, §9 (AMD). 2007, c. 231, §34 (AMD). 2007, c. 323, Pt. E, §§34-37 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §872. DUTY OF SECRETARY OF STATE

The duty of the Secretary of State to file documents under this chapter is ministerial. The filing or refusal to file a document does not: [1995, c. 633, Pt. B, §1 (NEW).]

**1. Validity of documents.** Affect the validity or invalidity of the document in whole or in part;

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**2. Correctness of information.** Relate to the correctness or incorrectness of information contained in the document; or

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Presumption of validity or correctness.** Create a presumption that the document is valid or invalid or that the information in the document is correct or incorrect.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

### SECTION HISTORY

1995, c. 633, §B1 (NEW).

## §873. ANNUAL REPORT OF REGISTERED AND FOREIGN LIMITED LIABILITY PARTNERSHIPS

**1. Annual report.** Each registered limited liability partnership and each foreign limited liability partnership authorized to do business in this State shall file, within the time prescribed by this chapter, an annual report setting forth:

A. The name of the registered or foreign limited liability partnership; [2007, c. 323, Pt. E, §38 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

A-1. The jurisdiction of organization of the limited liability partnership; [2007, c. 323, Pt. E, §39 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The information required by Title 5, section 105, subsection 1; [2007, c. 323, Pt. E, §40 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

C. A brief statement of the character of the business in which the limited liability partnership is actually engaged in this State, if any; and [1995, c. 633, Pt. B, §1 (NEW).]

D. The street address of the partnership's chief executive office, the street address of an office of the partnership in this State and the name and street address of the contact partner. [2005, c. 543, Pt. B, §15 (AFF); 2005, c. 543, Pt. B, §12 (RPR).]

[ 2007, c. 323, Pt. E, §§38-40 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Reporting period.** The Secretary of State shall specify by rule the period of time to which the annual report applies as provided in subsection 3. The information contained in the annual report must be current as of the date the report is signed.

[ 1995, c. 633, Pt. B, §1 (NEW) .]

**3. Execution, delivery and penalties.** This subsection governs execution, delivery and penalties.

A. The annual report must be executed and signed by a partner or any other duly authorized individual. [1995, c. 633, Pt. B, §1 (NEW).]

B. Subject to rules adopted under section 812, the report must be delivered to the Secretary of State or a designee for filing. The annual report may be delivered to the Secretary of State on a staggered basis as defined by the Secretary of State by rule in accordance with the Maine Administrative Procedure Act. The report must apply to the 12-month period specified by the Secretary of State. Proof to the satisfaction of the Secretary of State that, prior to the date that penalties become effective for late delivery of an annual report as established by the Secretary of State by rule, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid is considered a compliance with this requirement. [1995, c. 633, Pt. B, §1 (NEW).]

C. One copy of the report, together with the filing fee required by this chapter, must be delivered for filing to the Secretary of State, who shall file the report if the Secretary of State finds that it conforms to the requirements of this chapter. If the Secretary of State finds that it does not conform, the Secretary of State shall promptly mail or otherwise return the report to the limited liability partnership for any necessary correction. [1995, c. 633, Pt. B, §1 (NEW).]

D. The penalties prescribed by this chapter for failure to file the report within the time provided in this section do not apply if the report is corrected to conform to the requirements of this chapter and returned to the Secretary of State within 30 days from the date on which the report was mailed or otherwise returned to the limited liability partnership by the Secretary of State. [1995, c. 633, Pt. B, §1 (NEW).]

[ 1995, c. 633, Pt. B, §1 (NEW) .]

#### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1997, c. 376, §73 (AMD). 2005, c. 543, §B12 (AMD). 2005, c. 543, §B15 (AFF). 2007, c. 323, Pt. E, §§38-40 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §873-A. AMENDED ANNUAL REPORT OF REGISTERED OR FOREIGN LIMITED LIABILITY PARTNERSHIP

**1. Amended annual report.** If the information contained in an annual report filed under section 873 has changed, a limited liability partnership may, if it determines it to be necessary, deliver to the Secretary of State for filing an amended annual report to change the information on file. The amended annual report must be executed as provided by section 873, subsection 3, paragraph A.

[ 2003, c. 631, §79 (NEW) .]

**2. Contents.** The amended annual report must set forth:

A. The name of the registered or foreign limited liability partnership and the jurisdiction of its organization; [2003, c. 631, §79 (NEW).]

B. The date on which the original annual report was filed; and [2003, c. 631, §79 (NEW).]

C. The information that has changed and the date on which it changed. [2003, c. 631, §79 (NEW).]

[ 2003, c. 631, §79 (NEW) .]

**3. Period for filing.** An amended annual report may be filed by the limited liability partnership after the date of the original filing and until December 31st of that filing year.

[ 2003, c. 631, §79 (NEW) .]

#### SECTION HISTORY

2003, c. 631, §79 (NEW).

## §874. FAILURE TO FILE ANNUAL REPORT; INCORRECT REPORT; PENALTIES

**1. Failure to file annual report; penalty.** A registered or foreign limited liability partnership that is required to deliver an annual report for filing, as provided by section 873, that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the late filing penalty described in section 871, subsection 22, as long as the report is received by the Secretary of State prior to revocation of its status as a limited liability partnership or authority to do business as a foreign limited liability partnership, respectively. Upon a limited liability partnership's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 5 and Title 5, chapter 375, shall revoke the authority to do business of that partnership as a foreign limited liability partnership or shall revoke the status of that partnership as a registered limited liability partnership. The Secretary of State shall use the procedures set forth in section 808-B to revoke the status of a registered limited liability partnership and the procedures set forth in section 859-B to revoke the authority to do business of a partnership as a foreign limited liability partnership in this State. A foreign limited liability partnership whose authority to do business has been revoked under section 859-B that wishes to do business again as a limited liability partnership in this State must requalify by applying for authority under this subchapter. A partnership whose status as a registered limited liability partnership has been revoked under section 808-B must follow the requirements set forth in section 808-C to reinstate.

[ 2005, c. 543, Pt. B, §13 (AMD); 2005, c. 543, Pt. B, §15 (AFF) . ]

**2. Nonconformity.** If the Secretary of State finds that an annual report delivered for filing does not conform with the requirements of section 873, the report must be returned for correction.

[ 1995, c. 633, Pt. B, §1 (NEW) . ]

### 3. Revocation.

[ 2003, c. 631, §80 (RP) . ]

**4. Excusable neglect.** If the annual report of a registered or foreign limited liability partnership is not delivered for filing within the time specified in section 873, the limited liability partnership is excused from the liability provided in this section and from any other penalty for failure to file timely the report if it establishes to the satisfaction of the Secretary of State that failure to file was the result of excusable neglect and it furnishes the Secretary of State with a copy of the report within 30 days after it learns that the Secretary of State failed to receive the original report.

[ 2003, c. 631, §80 (AMD) . ]

**5. Inadvertent errors.** The status of a partnership as a limited liability partnership and the liability of a partner of that limited liability partnership is not adversely affected if the name or address of a partner listed in an annual report is erroneously stated or omitted, as long as that annual report was filed in good faith.

[ 1995, c. 633, Pt. B, §1 (NEW) . ]

### SECTION HISTORY

1995, c. 633, §B1 (NEW). 1999, c. 547, §B56 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 631, §80 (AMD). 2005, c. 543, §B13 (AMD). 2005, c. 543, §B15 (AFF).

**§875. EFFECTIVE DATE**

This Act takes effect September 1, 1996. All partnerships that register as registered limited liability partnerships on or after that date and all foreign limited liability partnerships that apply for authority to transact business within this State on or after that date are governed by this Act. [1995, c. 633, Pt. B, §1 (NEW).]

## SECTION HISTORY

1995, c. 633, §B1 (NEW).

**§876. APPLICATION TO EXISTING FOREIGN LIMITED LIABILITY PARTNERSHIPS; DEFINITION**

All foreign limited liability partnerships qualified as foreign corporations or limited partnerships or limited liability companies before September 1, 1996 are governed by this Act on and after September 1, 1996. By December 1, 1996 a partner of each foreign limited liability partnership shall file with the Secretary of State an application for authority to do business in this State under this Act and shall cancel the partnership's authority to do business in this State under chapter 19, former chapter 13 or former Title 13-A. If the foreign limited liability partnership fails to file the new application for authority to do business in this State by December 1, 1996, it must be treated as a general partnership without the status of a limited liability partnership with respect to any business conducted in this State between December 1, 1996 and the date on which it files that application. [2009, c. 629, Pt. A, §3 (AFF); 2009, c. 629, Pt. B, §8 (AMD).]

## SECTION HISTORY

1995, c. 633, §B1 (NEW). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B53 (COR). 2005, c. 543, §D17 (AMD). 2005, c. 543, §D18 (AFF). 2009, c. 629, Pt. A, §3 (AFF). 2009, c. 629, Pt. B, §8 (AMD).



## Chapter 17: UNIFORM PARTNERSHIP ACT

### Subchapter 1: GENERAL PROVISIONS HEADING: PL 2005. C. 543, PT. A, §2 (NEW)

#### §1001. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 543, Pt. A, §2 (NEW).]

**1. Business.** "Business" includes every trade, occupation and profession.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Debtor in bankruptcy.** "Debtor in bankruptcy" means a person who is the subject of:

A. An order for relief under 11 United States Code or a comparable order under a successor statute of general application; or [2005, c. 543, Pt. A, §2 (NEW).]

B. A comparable order under federal, state or foreign law governing insolvency. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Distribution.** "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Foreign limited liability partnership.** "Foreign limited liability partnership" means a partnership that:

A. Is formed under laws other than the laws of this State; and [2005, c. 543, Pt. A, §2 (NEW) .]

B. Has the status of a limited liability partnership under those laws. [2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Limited liability partnership.** "Limited liability partnership" means a partnership that has registered as a limited liability partnership pursuant to section 821 and does not have a similar statement in effect in any other jurisdiction.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**6. Partnership.** "Partnership" means an association of 2 or more persons to carry on as co-owners a business for profit formed under section 1022, predecessor law or comparable law of another jurisdiction.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**7. Partnership agreement.** "Partnership agreement" means the agreement, whether written, oral or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**8. Partnership at will.** "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**9. Partnership interest; partner's interest in partnership.** "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**10. Person.** "Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency or instrumentality or any other legal or commercial entity.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**11. Property.** "Property" means all property, real, personal or mixed, tangible or intangible or any interest therein.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**12. State.** "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**13. Statement.** "Statement" means a statement of dissociation under section 1074, a statement of dissolution under section 1085, a statement of merger under section 1097, a statement electing to be governed by this chapter prior to July 1, 2006 or an amendment or cancellation of any of the foregoing.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**14. Transfer.** "Transfer" includes an assignment, conveyance, lease, mortgage, deed and encumbrance.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1002. KNOWLEDGE AND NOTICE

**1. Knows.** A person knows a fact if the person has actual knowledge of it.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Has notice.** A person has notice of a fact if the person:

A. Knows of it; [2005, c. 543, Pt. A, §2 (NEW) .]

B. Has received a notification of it; or [2005, c. 543, Pt. A, §2 (NEW) .]

C. Has reason to know it exists from all of the facts known to the person at the time in question.

[2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Notifies or gives notification.** A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Receives notification.** A person receives a notification when the notification:

A. Comes to the person's attention; or [2005, c. 543, Pt. A, §2 (NEW) .]

B. Is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications. [2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Person other than individual; reasonable diligence.** Except as otherwise provided in subsection 6, a person other than an individual knows, has notice or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice or receives a notification of the fact or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if that person maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**6. Effective as to partnership.** A partner's knowledge, notice or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to or receipt of a notification by the partnership except in the case of a fraud on the partnership committed by or with the consent of that partner.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1003. EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE PROVISIONS

**1. Partnership agreement governs; default.** Except as otherwise provided in subsection 2, relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Nonwaivable provisions of chapter.** The partnership agreement may not:

A. Vary the rights and duties under section 1005 except to eliminate the duty to provide copies of statements to all of the partners; [2005, c. 543, Pt. A, §2 (NEW) .]

B. Unreasonably restrict the right of access to books and records under section 1043, subsection 2; [2005, c. 543, Pt. A, §2 (NEW) .]

C. Eliminate the duty of loyalty under section 1044, subsection 2 or section 1063, subsection 2, paragraph C, but:

(1) The partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty if not manifestly unreasonable; or

(2) All of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty; [2005, c. 543, Pt. A, §2 (NEW).]

D. Unreasonably reduce the duty of care under section 1044, subsection 3 or section 1063, subsection 2, paragraph C; [2005, c. 543, Pt. A, §2 (NEW).]

E. Eliminate the obligation of good faith and fair dealing under section 1044, subsection 4, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured if the standards are not manifestly unreasonable; [2005, c. 543, Pt. A, §2 (NEW).]

F. Vary the power to dissociate as a partner under section 1062, subsection 1, except to require the notice under section 1061, subsection 1 to be in writing; [2005, c. 543, Pt. A, §2 (NEW).]

G. Vary the right of a court to expel a partner in the events specified in section 1061, subsection 5; [2005, c. 543, Pt. A, §2 (NEW).]

H. Vary the requirement to wind up the partnership business in cases specified in section 1081, subsection 4, 5 or 6; [2005, c. 543, Pt. A, §2 (NEW).]

I. Vary the law applicable to a limited liability partnership under section 1006, subsection 2; or [2005, c. 543, Pt. A, §2 (NEW).]

J. Restrict rights of 3rd parties under this chapter. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1004. SUPPLEMENTAL PRINCIPLES OF LAW

**1. Law and equity.** Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Interest rate.** If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in Title 14, section 1602-B.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1005. EXECUTION, FILING AND RECORDING OF STATEMENTS

**1. Filing with Secretary of State.** To be effective under this chapter, a statement must be filed in the office of the Secretary of State. A certified copy of a statement that is filed in an office in another state may be filed in the office of the Secretary of State. Either filing has the effect provided in this chapter with respect to partnership property located in or transactions that occur in this State.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Recorded in registry of deeds.** A certified copy of a statement that has been filed in the office of the Secretary of State and recorded in the registry of deeds of the county in which real property is located has the effect provided for recorded statements in this chapter. A recorded statement that is not a certified copy of a statement filed in the office of the Secretary of State does not have the effect provided for recorded statements in this chapter.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**3. Execution.** A statement filed by a partnership must be executed by at least one partner. Other statements must be executed either by a partner or other person authorized by this chapter. An individual who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**4. Amendment or cancellation.** A person authorized by this chapter to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement and states the substance of the amendment or cancellation.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**5. Copies.** A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**6. Secretary of State.** The Secretary of State may collect a fee for filing or providing a certified copy of a statement. The registry of deeds may collect a fee for recording a statement.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1006. GOVERNING LAW

**1. Partnership.** Except as otherwise provided in a filed statement, in a written partnership agreement or in subsection 2, the law of the jurisdiction in which a partnership has its chief executive office governs relations among the partners and between the partners and the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Limited liability partnership.** The law of this State governs relations among the partners and between the partners and the partnership and the liability of partners for an obligation of a limited liability partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1007. PARTNERSHIP SUBJECT TO AMENDMENT OR REPEAL OF CHAPTER

A partnership governed by this chapter is subject to any amendment to or repeal of this chapter.

[2005, c. 543, Pt. A, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1008. FORMS

The Secretary of State may prescribe and furnish on request forms for any documents required or permitted to be filed by this chapter. If the Secretary of State so requires, use of these forms is mandatory.

[2005, c. 543, Pt. A, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1009. FILING, SERVICE AND COPYING FEES

**1. Filing fees.** The following fees must be paid to the Secretary of State.

A. For filing a statement of disassociation under section 1074, the fee is \$20; [2005, c. 543, Pt. A, §2 (NEW).]

B. For filing a statement of dissolution under section 1085, the fee is \$75; [2005, c. 543, Pt. A, §2 (NEW).]

C. For filing a statement of conversion under section 1093, the fee is \$150; [2009, c. 56, §23 (AMD).]

D. For filing a statement of merger under section 1095, the fee is \$150; [2005, c. 543, Pt. A, §2 (NEW).]

E. For any other statement required or permitted to be filed by this chapter, the fee is \$35; and [2005, c. 543, Pt. A, §2 (NEW).]

F. For preclearance of any statement for filing, the fee is \$100. [2005, c. 543, Pt. A, §2 (NEW).]

[2009, c. 56, §23 (AMD).]

**2. Service of process fee.** The Secretary of State shall collect a fee of \$20 each time process is served on the Secretary of State under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if that party prevails in the proceeding.

[2005, c. 543, Pt. A, §2 (NEW).]

**3. Copying and certifying fees.** The Secretary of State shall charge the following fees for copying and certifying the copy of any filed documents.

A. For copying, the fee is \$2 per page. [2005, c. 543, Pt. A, §2 (NEW).]

B. For certifying the copy, the fee is \$5. [2005, c. 543, Pt. A, §2 (NEW).]

[2005, c. 543, Pt. A, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §A2 (NEW). 2009, c. 56, §23 (AMD).

## §1010. EXPEDITED SERVICE

The Secretary of State may provide expedited service for the processing of documents in accordance with this chapter. The Secretary of State shall establish a fee schedule and adopt rules to set forth the procedures governing this expedited service. All fees collected as provided by this section must be deposited into a fund for use by the Secretary of State in providing improved filing service. [ 2005, c. 543, Pt. A, §2 (NEW). ]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1011. FILING DUTY OF SECRETARY OF STATE

**1. Duty to file.** If a document delivered to the office of the Secretary of State for filing pursuant to this chapter satisfies the requirements of section 1005, the Secretary of State shall file the document.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Recording as filed; acknowledgment.** The Secretary of State files a document pursuant to subsection 1 by recording it as filed on the date of receipt. After filing a document, the Secretary of State shall deliver to the partnership or its representative a copy of the document with an acknowledgment of the date of filing.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**3. Refusal to file; written explanation.** If the Secretary of State refuses to file a document, the Secretary of State shall return it to the partnership or its representative within 5 days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**4. Ministerial.** The Secretary of State's duty to file a document under this section is ministerial, and the filing or refusal to file a document does not:

A. Affect the validity or invalidity of the document in whole or part; [ 2005, c. 543, Pt. A, §2 (NEW). ]

B. Relate to the correctness or incorrectness of information contained in the document; or [ 2005, c. 543, Pt. A, §2 (NEW). ]

C. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect. [ 2005, c. 543, Pt. A, §2 (NEW). ]

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1012. APPEAL SECRETARY OF STATE'S REFUSAL TO FILE DOCUMENT

**1. Commencing an appeal.** If the Secretary of State refuses to file a document delivered to the Secretary of State's office for filing, the partnership within 30 days after the return of the document may appeal the refusal to the Superior Court of the county where the corporation's principal office is located or,

if there is not a principal office in this State, of Kennebec County. The appeal is commenced by petitioning the court to compel filing of the document and by attaching to the petition the document and the Secretary of State's explanation of the refusal to file.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Court order.** Upon the receipt of a petition filed under subsection 1, the court may summarily order the Secretary of State to file a document or take other action the court considers appropriate.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Appeal court's decision.** The court's final decision may be appealed as in other civil proceedings.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1013. EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT

A certificate from the Secretary of State delivered with a copy of a document filed by the Secretary of State pursuant to section 1011 is conclusive evidence that the original document is on file with the Secretary of State. [2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1014. PENALTY FOR SIGNING FALSE DOCUMENT

A person commits a Class E crime if that person signs a document pursuant to this chapter knowing it is false in any material respect with intent that the document be delivered to the Secretary of State for filing. [2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1015. POWERS

The Secretary of State has the power reasonably necessary to perform the duties required of the Secretary of State by this chapter, including the power to make rules not inconsistent with this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1016. ACCESS TO SECRETARY OF STATE'S DATABASE

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules to establish a fee schedule and governing procedures. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY



2005, c. 543, §A2 (NEW).

## §1017. PUBLICATIONS

**1. Informational publications.** The Secretary of State may establish by rule a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Funds; fees deposited.** All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this Title and for funding new publications.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## Subchapter 2: NATURE OF PARTNERSHIP HEADING: PL 2005, C. 543, PT. A, §2 (NEW)

## §1021. PARTNERSHIP AS ENTITY

**1. Distinct from partners.** A partnership is an entity distinct from its partners.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Limited liability partnership.** A limited liability partnership continues to be the same entity that existed before the filing of a statement of qualification under section 821.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1022. FORMATION OF PARTNERSHIP

**1. Formation of partnership.** Except as otherwise provided in subsection 2, the association of 2 or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Not partnership.** An association formed under a statute other than this chapter, a predecessor statute or a comparable statute of another jurisdiction is not a partnership under this chapter.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**3. Determination of formation; rules.** In determining whether a partnership is formed, the following rules apply.

A. Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property. [2005, c. 543, Pt. A, §2 (NEW).]

B. The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived. [2005, c. 543, Pt. A, §2 (NEW).]

C. A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

- (1) Of a debt by installments or otherwise;
  - (2) For services as an independent contractor or of wages or other compensation to an employee;
  - (3) Of rent;
  - (4) Of an annuity or other retirement or health benefit to a beneficiary, representative or designee of a deceased or retired partner;
  - (5) Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds or increase in value derived from the collateral; or
  - (6) For the sale of the goodwill of a business or other property by installments or otherwise.
- [2005, c. 543, Pt. A, §2 (NEW).]

[2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1023. PARTNERSHIP PROPERTY

Property acquired by a partnership is property of the partnership and not of the partners individually.

[2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1024. WHEN PROPERTY IS PARTNERSHIP PROPERTY

**1. Partnership property.** Property is partnership property if acquired in the name of:

- A. The partnership; or [2005, c. 543, Pt. A, §2 (NEW).]
- B. One or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership. [2005, c. 543, Pt. A, §2 (NEW).]

[2005, c. 543, Pt. A, §2 (NEW).]

**2. Property acquired by partnership.** Property is acquired in the name of the partnership by a transfer to:

- A. The partnership in its name; or [2005, c. 543, Pt. A, §2 (NEW).]

B. One or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property. [2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Presumed to be partnership property.** Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Presumed to be separate property.** Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW) .

### Subchapter 3: RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP HEADING: PL 2005, C. 543, PT. A, §2 (NEW)

## §1031. PARTNER AGENT OF PARTNERSHIP

**1. Partner as agent.** Each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Other act binding on partnership if authorized.** An act of a partner that is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW) .

## §1032. TRANSFER OF PARTNERSHIP PROPERTY

**1. Transfer of partnership property.** Partnership property may be transferred as follows.

A. Partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name. [2005, c. 543, Pt. A, §2 (NEW) .]

B. Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to those partners of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held. [ 2005, c. 543, Pt. A, §2 (NEW). ]

C. Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to those persons of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held. [ 2005, c. 543, Pt. A, §2 (NEW). ]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Recovery of property from transferee.** A partnership may recover partnership property from a transferee only if the partnership proves that execution of the instrument of initial transfer did not bind the partnership under section 1031 and:

A. As to a subsequent transferee who gave value for property transferred under subsection 1, paragraph A or B, proves that the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or [ 2005, c. 543, Pt. A, §2 (NEW). ]

B. As to a transferee who gave value for property transferred under subsection 1, paragraph C, proves that the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership. [ 2005, c. 543, Pt. A, §2 (NEW). ]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. No recovery.** A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subsection 2, from any earlier transferee of the property.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. All partners' interests in one person.** If a person holds all of the partners' interests in the partnership, all of the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1033. PARTNERSHIP LIABLE FOR PARTNER'S ACTIONABLE CONDUCT

**1. Partnership liable for loss, injury or penalty.** A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Partnership liable for misapplication.** If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1034. PARTNER'S LIABILITY

**1. Jointly and severally liable.** Except as otherwise provided in subsections 2 and 3, all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Not personally liable for obligation prior to admission.** A person admitted as a partner into an existing partnership is not personally liable for any partnership obligation incurred before the person's admission as a partner.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Obligation incurred while limited liability partnership.** An obligation of a partnership incurred while the partnership is a limited liability partnership, whether arising in contract, tort or otherwise, is solely the obligation of the partnership. A partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or so acting as a partner. This subsection applies notwithstanding anything inconsistent in the partnership agreement that existed immediately before the vote required to become a limited liability partnership under section 821, subsection 2.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Exceptions to limited liability of shareholders.** The exceptions under common law to a limited liability of shareholders of a business corporation organized under the Maine Business Corporation Act and shareholders of a professional corporation organized under the Maine Professional Service Corporation Act apply to the limited liability of partners in a professional limited liability partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Exception for certain obligations.** With regard to certain obligations incurred prior to the effective date of this chapter, the following provisions apply:

A. To the extent any obligations of a partnership were incurred prior to the effective date of this chapter and while the partnership was a limited liability partnership, the limitation on liability of a partner is governed exclusively by paragraph B and the provisions of subsection 3 do not apply. [ 2007, c. 231, §35 (NEW); 2007, c. 231, §40 (AFF). ]

B. A partner in a limited liability partnership is not liable directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for debts, obligations and liabilities however chargeable to the partnership or to another partner or partners, whether in tort, contract or otherwise, arising from omissions, negligence, wrongful acts, misconduct or malpractice committed by another partner, employee, agent or representative of the partnership in the course of the partnership business while the partnership is a limited liability partnership. [ 2007, c. 231, §35 (NEW); 2007, c. 231, §40 (AFF). ]

C. For purposes of defining an obligation to which paragraph B applies, the term of an obligation is the original term of the obligation plus, unless otherwise agreed in writing by the obligor partnership and the obligee, any period as to which the obligor partnership has an option to unilaterally renew or extend the term of such obligation. [2007, c. 231, §35 (NEW); 2007, c. 231, §40 (AFF).]

[ 2007, c. 231, §35 (NEW); 2007, c. 231, §40 (AFF) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW). 2007, c. 231, §35 (AMD). 2007, c. 231, §40 (AFF).

## §1035. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS

**1. Sue and be sued.** A partnership may sue and be sued in the name of the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Action against partnership and partners.** An action may be brought against the partnership and, to the extent not inconsistent with section 1034, any or all of the partners in the same action or in separate actions.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Judgment against partnership; partner.** A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Execution against assets of partner.** A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under section 1034 and:

A. A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part; [2005, c. 543, Pt. A, §2 (NEW) .]

B. The partnership is a debtor in bankruptcy; [2005, c. 543, Pt. A, §2 (NEW) .]

C. The partner has agreed that the creditor need not exhaust partnership assets; [2005, c. 543, Pt. A, §2 (NEW) .]

D. A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome or that the grant of permission is an appropriate exercise of the court's equitable powers; or [2005, c. 543, Pt. A, §2 (NEW) .]

E. Liability is imposed on the partner by law or contract independent of the existence of the partnership. [2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Application to partnership liability or obligation.** This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under section 1036.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1036. LIABILITY OF PURPORTED PARTNER

**1. Liability of purported partner.** If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Purported partner as agent.** If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Liability of dissociated partner.** A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Nonpartners not liable as partners.** Except as otherwise provided in subsections 1 and 2, persons who are not partners as to each other are not liable as partners to other persons.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

SECTION HISTORY

2005, c. 543, §A2 (NEW).

### Subchapter 4: RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP HEADING: PL 2005, C. 543, PT. A, §2 (NEW)

## §1041. PARTNER'S RIGHTS AND DUTIES

**1. Partner's account.** Each partner is deemed to have an account that is:

A. Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, that the partner contributes to the partnership and the partner's share of the partnership profits; and [2005, c. 543, Pt. A, §2 (NEW).]

B. Charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, that is distributed by the partnership to the partner and the partner's share of the partnership losses. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Partnership profits and losses.** Each partner is entitled to an equal share of the partnership profits and is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Reimbursement and indemnification.** A partnership shall reimburse a partner for payments made and indemnify a partner for liabilities incurred by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Advance to partnership.** A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Loan to partnership; interest.** A payment or advance made by a partner that gives rise to a partnership obligation under subsection 3 or 4 constitutes a loan to the partnership that accrues interest from the date of the payment or advance.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**6. Management and conduct of business.** Each partner has equal rights in the management and conduct of the partnership business.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**7. Use or possess partnership property.** A partner may use or possess partnership property only on behalf of the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**8. Remuneration.** A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**9. Consent of all partners required.** A person may become a partner only with the consent of all of the partners.

[ 2005, c. 543, Pt. A, §2 (NEW) .]



**10. Decision by majority or unanimous.** A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**11. Obligations to other persons.** This section does not affect the obligations of a partnership to other persons under section 1031.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1042. DISTRIBUTIONS IN KIND

A partner has no right to receive, and may not be required to accept, a distribution in kind. [ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1043. PARTNER'S RIGHTS AND DUTIES WITH RESPECT TO INFORMATION

**1. Books and records at chief executive office.** A partnership shall keep its books and records, if any, at its chief executive office.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Access to books and records.** A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Furnishing of information.** Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability:

A. Without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this chapter; and [ 2005, c. 543, Pt. A, §2 (NEW) .]

B. On demand, any other information concerning the partnership's business and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances. [ 2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1044. GENERAL STANDARDS OF PARTNER'S CONDUCT

**1. Partner's fiduciary duties.** The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subsections 2 and 3 as those duties may be clarified or limited in the partnership agreement to the extent and in the manner authorized by section 1003, subsection 2.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Duty of loyalty limited.** A partner's duty of loyalty to the partnership and the other partners is limited to the following:

A. To account to the partnership and hold as trustee for it any property, profit or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity; [ 2005, c. 543, Pt. A, §2 (NEW) .]

B. To refrain from knowingly dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership; and [ 2005, c. 543, Pt. A, §2 (NEW) .]

C. To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership. [ 2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Duty of care.** A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct or a knowing violation of law.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Obligation of good faith and fair dealing.** A partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing, as those obligations may be clarified in the partnership agreement to the extent and in the manner authorized by section 1003, subsection 2.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Partner's own interest.** A partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**6. Loan to and business with partnership.** A partner may lend money to and transact other business with the partnership, and as to each loan or transaction the rights and obligations of the partner are the same as those of a person who is not a partner, subject to other applicable law.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**7. Personal or legal representative.** This section applies to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §A2 (NEW) .

## §1045. ACTIONS BY PARTNERSHIP AND PARTNERS

**1. Partnership action against partner.** A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Partner action against partnership.** A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to:

A. Enforce the partner's rights under the partnership agreement; [ 2005, c. 543, Pt. A, §2 (NEW) . ]

B. Enforce the partner's rights under this chapter, including:

(1) The partner's rights under sections 1041, 1043 and 1044;

(2) The partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to section 1071 or enforce any other right under subchapter 6 or 7; or

(3) The partner's right to compel a dissolution and winding up of the partnership business or enforce any other right under subchapter 8; or [ 2005, c. 543, Pt. A, §2 (NEW) . ]

C. Enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship. [ 2005, c. 543, Pt. A, §2 (NEW) . ]

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**3. Time limitation.** The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1046. CONTINUATION OF PARTNERSHIP BEYOND DEFINITE TERM OR PARTICULAR UNDERTAKING

**1. Rights and duties as at expiration or completion.** If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Presumption of agreement to continue.** If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## Subchapter 5: TRANSFEREES AND CREDITORS OF PARTNER HEADING: PL 2005, C. 543, PT. A, §2 (NEW)

### §1051. PARTNER NOT CO-OWNER OF PARTNERSHIP PROPERTY

A partner is not a co-owner of partnership property and has no interest in partnership property that can be transferred, either voluntarily or involuntarily. [2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1052. PARTNER'S TRANSFERABLE INTEREST IN PARTNERSHIP

The only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership, the allocations of income, gain, loss, deduction or credit or similar items related to such profits and losses and the partner's right to receive distributions. The interest is personal property. [2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1053. TRANSFER OF PARTNER'S TRANSFERABLE INTEREST

**1. Transfer of interest.** A transfer, in whole or in part, of a partner's transferable interest in the partnership:

- A. Is permissible; [2005, c. 543, Pt. A, §2 (NEW).]
- B. Does not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business; and [2005, c. 543, Pt. A, §2 (NEW).]
- C. Does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions or to inspect or copy the partnership books or records. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Transferee of partner's interest.** A transferee of a partner's transferable interest in the partnership has a right:

- A. To receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled; [2005, c. 543, Pt. A, §2 (NEW).]
- B. To receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor; and [2005, c. 543, Pt. A, §2 (NEW).]
- C. To seek under section 1081, subsection 6, a judicial determination that it is equitable to wind up the partnership business. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Account of transaction to transferee.** In a dissolution and winding up, a transferee is entitled to an account of partnership transactions only from the date of the latest account agreed to by all of the partners.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Rights and duties retained.** Upon transfer, the transferor retains the rights and duties of a partner other than the interest in distributions transferred.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Effect to transferee's rights; notice.** A partnership need not give effect to a transferee's rights under this section until the partnership has notice of the transfer.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**6. Transfer in violations.** A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW) .

### §1054. PARTNER'S TRANSFERABLE INTEREST SUBJECT TO CHARGING ORDER

**1. Charging order; interest of judgment debtor.** On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts and inquiries the judgment debtor might have made or that the circumstances of the case may require.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Charging order; lien.** A charging order constitutes a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Redemption of charged interest.** At any time before foreclosure, an interest charged may be redeemed:

A. By the judgment debtor; [2005, c. 543, Pt. A, §2 (NEW) .]

B. With property other than partnership property, by one or more of the other partners; or [2005, c. 543, Pt. A, §2 (NEW) .]

C. With partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged. [2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Exemptions apply.** This chapter does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Exclusive remedy for judgment creditor.** This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### Subchapter 6: PARTNER'S DISSOCIATION HEADING: PL 2005, C. 543, PT. A, §2 (NEW)

## §1061. EVENTS CAUSING PARTNER'S DISSOCIATION

A partner is dissociated from a partnership upon the occurrence of any of the following events: [ 2005, c. 543, Pt. A, §2 (NEW) .]

**1. Notice of express will to withdraw.** The partnership's having notice of the partner's express will to withdraw as a partner or on a later date specified by the partner;

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Agreed event.** An event agreed to in the partnership agreement as causing the partner's dissociation;

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Expulsion pursuant to agreement.** The partner's expulsion pursuant to the partnership agreement;

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Expulsion by unanimous vote.** The partner's expulsion by the unanimous vote of the other partners if:

A. It is unlawful to carry on the partnership business with that partner; [ 2005, c. 543, Pt. A, §2 (NEW) .]

B. There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security purposes, or a court order charging the partner's interest, that has not been foreclosed; [ 2005, c. 543, Pt. A, §2 (NEW) .]

C. Within 90 days after the partnership notifies a partner who is a limited liability company or corporation that it will be expelled because it has filed a certificate of dissolution or the equivalent or that it has been judicially or administratively dissolved, the applicable certificate of dissolution or its equivalent has not been revoked or it has not been administratively reinstated; [ 2005, c. 543, Pt. A, §2 (NEW) .]

D. Within 90 days after the partnership notifies a partner who is a limited liability company or corporation that it will be expelled because its right to do business has been suspended by the jurisdiction of organization or incorporation, there has been no reinstatement of its right to do business by such jurisdiction; or [ 2005, c. 543, Pt. A, §2 (NEW) .]

E. A partnership that is a partner has been dissolved and its business is being wound up; [ 2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Expulsion by judicial determination.** On application by the partnership or another partner, the partner's expulsion by judicial determination because:

A. The partner engaged in wrongful conduct that adversely and materially affected the partnership business; [2005, c. 543, Pt. A, §2 (NEW).]

B. The partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under section 1044; or [2005, c. 543, Pt. A, §2 (NEW).]

C. The partner engaged in conduct relating to the partnership business that makes it not reasonably practicable to carry on the business in partnership with the partner; [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**6. Partner's actions.** The partner's:

A. Becoming a debtor in bankruptcy; [2005, c. 543, Pt. A, §2 (NEW).]

B. Executing an assignment for the benefit of creditors; [2005, c. 543, Pt. A, §2 (NEW).]

C. Seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of that partner or of all or substantially all of that partner's property; or [2005, c. 543, Pt. A, §2 (NEW).]

D. Failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence or failing within 90 days after the expiration of a stay to have the appointment vacated; [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**7. Partner who is individual.** In the case of a partner who is an individual:

A. The partner's death; [2005, c. 543, Pt. A, §2 (NEW).]

B. The appointment of a guardian or general conservator for the partner; or [2005, c. 543, Pt. A, §2 (NEW).]

C. A judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement; [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**8. Partner is trust or trustee.** In the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee;

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**9. Partner is estate or personal representative of estate.** In the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor personal representative; or

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**10. Termination.** Termination of a partner who is not an individual, partnership, limited liability company, corporation, trust or estate.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1062. PARTNER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION

**1. By express will.** A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to section 1061, subsection 1.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Wrongful dissociation.** A partner's dissociation is wrongful only if:

A. It is in breach of an express provision of the partnership agreement; or [ 2005, c. 543, Pt. A, §2 (NEW) .]

B. In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:

(1) The partner withdraws by express will, unless the withdrawal follows within 90 days after another partner's dissociation by death or otherwise under section 1061, subsections 6 to 10 or wrongful dissociation under this subsection;

(2) The partner is expelled by judicial determination under section 1061, subsection 5;

(3) The partner is dissociated by becoming a debtor in bankruptcy; or

(4) In the case of a partner who is not an individual, trust other than a business trust or estate, the partner is expelled or otherwise dissociated because the partner willfully dissolved or terminated.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Liability for wrongful dissociation.** A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1063. EFFECT OF PARTNER'S DISSOCIATION

**1. Appreciation of law.** If a partner's dissociation results in a dissolution and winding up of the partnership business, subchapter 8 applies; otherwise, subchapter 7 applies.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Internal effects of partner's dissociation.** Upon a partner's dissociation:

A. The partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in section 1083; [ 2005, c. 543, Pt. A, §2 (NEW) .]



B. The partner's duty of loyalty under section 1044, subsection 2, paragraph C terminates; and [ 2005 , c. 543, Pt. A, §2 (NEW) . ]

C. The partner's duty of loyalty under section 1044, subsection 2, paragraphs A and B and duty of care under section 1044, subsection 3 continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to section 1083. [ 2005, c. 543, Pt. A, §2 (NEW) . ]

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW) .

### Subchapter 7: PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP HEADING: PL 2005, C. 543, PT. A, §2 (NEW)

#### **§1071. PURCHASE OF DISSOCIATED PARTNER'S INTEREST**

**1. Purchase of interest if no dissolution.** If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under section 1081, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subsection 2.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Buyout price.** The buyout price of a dissociated partner's interest is the amount that would have been distributable to the dissociating partner under section 1087, subsection 2 if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership were wound up as of that date. Interest must be paid from the date of dissociation to the date of payment.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**3. Damages for wrongful dissociation; interest.** Damages for wrongful dissociation under section 1062, subsection 2, and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**4. Indemnification.** A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under section 1072.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**5. Payment after 120 days.** If no agreement for the purchase of a dissociated partner's interest is reached within 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subsection 3.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**6. Deferred payment.** If a deferred payment is authorized under subsection 8, the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection 3, stating the time of payment, the amount and type of security for payment and the other terms and conditions of the obligation.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**7. Disclosures with payment or tender.** The payment or tender required by subsection 5 or 6 must be accompanied by the following:

- A. A statement of partnership assets and liabilities as of the date of dissociation; [ 2005, c. 543, Pt. A, §2 (NEW) .]
- B. The latest available partnership balance sheet and income statement, if any; [ 2005, c. 543, Pt. A, §2 (NEW) .]
- C. An explanation of how the estimated amount of the payment was calculated; and [ 2005, c. 543, Pt. A, §2 (NEW) .]
- D. Written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection 3 or other terms of the obligation to purchase. [ 2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**8. Wrongful dissociation.** A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment must be adequately secured and bear interest.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**9. Dissociated partner's action against partnership.** A dissociated partner may maintain an action against the partnership, pursuant to section 1045, subsection 2, paragraph B, subparagraph (2), to determine the buyout price of that partner's interest, any offsets under subsection 3, or other terms of the obligation to purchase. The action must be commenced within 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under subsection 3, and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection 8, the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection 7.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW) .

## §1072. DISSOCIATED PARTNER'S POWER TO BIND AND LIABILITY TO PARTNERSHIP

**1. Apparent authority of dissociated partner.** For 2 years after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under subchapter 9, is bound by an act of the dissociated partner that would have bound the partnership under section 1031 before dissociation only if at the time of entering into the transaction the other party:

- A. Reasonably believed that the dissociated partner was then a partner; [ 2005, c. 543, Pt. A, §2 (NEW) . ]
- B. Did not have notice of the partner's dissociation; and [ 2005, c. 543, Pt. A, §2 (NEW) . ]
- C. Is not deemed to have notice under section 1074, subsection 2. [ 2005, c. 543, Pt. A, §2 (NEW) . ]

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Liability for obligation after dissociation.** A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subsection 1.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

### SECTION HISTORY

2005, c. 543, §A2 (NEW) .

## §1073. DISSOCIATED PARTNER'S LIABILITY TO OTHER PERSONS

**1. Liability for partnership obligation.** A partner's dissociation does not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in subsection 2.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Liability to other party.** A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under subchapter 9, within 2 years after the partner's dissociation, only if the partner is liable for the obligation under section 1034 and at the time of entering into the transaction the other party:

- A. Reasonably believed that the dissociated partner was then a partner; [ 2005, c. 543, Pt. A, §2 (NEW) . ]
- B. Did not have notice of the partner's dissociation; and [ 2005, c. 543, Pt. A, §2 (NEW) . ]
- C. Is not deemed to have had notice under section 1074, subsection 2. [ 2005, c. 543, Pt. A, §2 (NEW) . ]

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**3. Released from liability for partnership obligation by agreement.** By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**4. Released from liability for partnership obligation because of material alteration.** A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1074. STATEMENT OF DISSOCIATION

**1. Filing of statement.** A dissociated partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Deemed to have notice.** For the purposes of section 1072, subsection 1, paragraph C and section 1073, subsection 2, paragraph C, a person not a partner is deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1075. CONTINUED USE OF PARTNERSHIP NAME

Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business. [2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### Subchapter 8: WINDING UP PARTNERSHIP BUSINESS

#### HEADING: PL 2005, C. 543, PT. A, §2 (NEW)

## §1081. EVENTS CAUSING DISSOLUTION AND WINDING UP OF PARTNERSHIP BUSINESS

A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events: [2005, c. 543, Pt. A, §2 (NEW) .]

**1. Notice of express will to withdraw.** In a partnership at will, the partnership's having notice from a partner, other than a partner who is dissociated under section 1061, subsections 2 to 10, of that partner's express will to withdraw as a partner, or on a later date specified by the partner;

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Dissolution before expiration of term.** In a partnership for a definite term or particular undertaking:

A. Within 90 days after a partner's dissociation by death or otherwise under section 1061, subsections 6 to 10 or wrongful dissociation under section 1062, subsection 2, the express will of at least 1/2 of the remaining partners to wind up the partnership business, for which purpose a partner's rightful

dissociation pursuant to section 1062, subsection 2, paragraph B, subparagraph (1) constitutes the expression of that partner's will to wind up the partnership business; [2005, c. 543, Pt. A, §2 (NEW).]

B. The express will of all of the partners to wind up the partnership business; or [2005, c. 543, Pt. A, §2 (NEW).]

C. The expiration of the term or the completion of the undertaking; [2005, c. 543, Pt. A, §2 (NEW).]

[2005, c. 543, Pt. A, §2 (NEW).]

**3. Event in partnership agreement.** An event agreed to in the partnership agreement resulting in the winding up of the partnership business;

[2005, c. 543, Pt. A, §2 (NEW).]

**4. Unlawful continuation; cure.** An event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within 90 days after notice to the partnership of the event is effective retroactively to the date of the event for purposes of this section;

[2005, c. 543, Pt. A, §2 (NEW).]

**5. Judicial determination; application by partner.** On application by a partner, a judicial determination that:

A. The economic purpose of the partnership is likely to be unreasonably frustrated; [2005, c. 543, Pt. A, §2 (NEW).]

B. Another partner has engaged in conduct relating to the partnership business that makes it not reasonably practicable to carry on the business in partnership with that partner; or [2005, c. 543, Pt. A, §2 (NEW).]

C. It is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement; or [2005, c. 543, Pt. A, §2 (NEW).]

[2005, c. 543, Pt. A, §2 (NEW).]

**6. Judicial determination; application by transferee.** On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business:

A. After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or [2005, c. 543, Pt. A, §2 (NEW).]

B. At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer. [2005, c. 543, Pt. A, §2 (NEW).]

[2005, c. 543, Pt. A, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1082. PARTNERSHIP CONTINUES AFTER DISSOLUTION

**1. Continuation for purpose of winding up.** Subject to subsection 2, a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Waiver of right to wind up business; terminate partnership.** At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:

A. The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred; and [ 2005, c. 543, Pt. A, §2 (NEW) .]

B. The rights of a 3rd party accruing under section 1084, subsection 1 or arising out of conduct in reliance on the dissolution before the 3rd party knew or received a notification of the waiver may not be adversely affected. [ 2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1083. RIGHT TO WIND UP PARTNERSHIP BUSINESS

**1. Participation of partner; judicial supervision.** After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative or transferee, the Superior Court, for good cause shown, may order judicial supervision of the winding up.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Legal representative of last surviving partner.** The legal representative of the last surviving partner may wind up a partnership's business.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Powers of person winding up business.** A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to section 1087, settle disputes by mediation or arbitration and perform other necessary acts.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1084. PARTNER'S POWER TO BIND PARTNERSHIP AFTER DISSOLUTION

Subject to section 1085, a partnership is bound by a partner's act after dissolution that: [ 2005, c. 543, Pt. A, §2 (NEW) .]

**1. Appropriate act.** Is appropriate for winding up the partnership business; or

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Act would have bound partnership.** Would have bound the partnership under section 1031 before dissolution, if the other party to the transaction did not have notice of the dissolution.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1085. STATEMENT OF DISSOLUTION

**1. Filing of statement.** After dissolution, a partner who has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership and that the partnership has dissolved and is winding up its business.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Deemed to have notice.** For the purposes of sections 1031 and 1084, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution 30 days after it is filed.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

### §1086. PARTNER'S LIABILITY TO OTHER PARTNERS AFTER DISSOLUTION

**1. Liable for partner's share.** Except as otherwise provided in subsection 2 and section 1034, after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under section 1084.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. Liability for inappropriate act.** A partner who, with knowledge of the dissolution, incurs a partnership liability under section 1084, subsection 2 by an act that is not appropriate for winding up the partnership business is liable to the partnership for any damage caused to the partnership arising from the liability.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1087. SETTLEMENT OF ACCOUNTS AND CONTRIBUTIONS AMONG PARTNERS

**1. Application of assets.** In winding up a partnership's business, the assets of the partnership, including the contributions of the partners required by this section, must be applied to discharge the partnership's obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus must be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under subsection 2.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Settlement of partnership accounts; distributions; contribution.** Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account, but excluding from the calculation charges attributable to an obligation for which the partner is not personally liable under section 1034.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Contribution by other partners; recovery.** If a partner fails to contribute the full amount required under subsection 2, all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy the partnership obligations for which they are personally liable under section 1034. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations for which the partner is personally liable under section 1034.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Contribution for losses after settlement.** After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement and for which the partner is personally liable under section 1034.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Deceased partner's estate liable.** The estate of a deceased partner is liable for the partner's obligation to contribute to the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**6. Enforcement for creditors.** An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## Subchapter 9: CONVERSIONS AND MERGERS

### HEADING: PL 2005, C. 543, PT. A, §2 (NEW)



## §1091. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [ 2005, c. 543, Pt. A, §2 (NEW) . ]

**1. Corporation.** "Corporation" means a corporation created under the Maine Business Corporation Act, predecessor law or comparable law of another jurisdiction.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**2. General partner.** "General partner" means a partner in a partnership, a general partner in a limited partnership, a general partner in a limited liability partnership and a general partner in a limited liability limited partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**3. Limited liability company.** "Limited liability company" means a limited liability company created under the Maine Limited Liability Company Act, predecessor law or comparable law of another jurisdiction.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**4. Limited liability limited partnership.** "Limited liability limited partnership" means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**5. Limited partner.** "Limited partner" means a limited partner in a limited partnership and a limited partner in a limited liability partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**6. Limited partnership.** "Limited partnership" means a limited partnership created under the Uniform Limited Partnership Act, predecessor law or comparable law of another jurisdiction.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**7. Member.** "Member" means a person reflected in the required records of a limited liability company as the owner of some governance rights of a membership interest in the limited liability company.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**8. Partner.** "Partner" includes both a general partner and a limited partner.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**9. Partnership.** "Partnership" means a partnership formed under section 1022 or any predecessor law.

[ 2005, c. 543, Pt. A, §2 (NEW) . ]

**10. Shareholder.** "Shareholder" means the person in whose name the units into which proprietary interests in a corporation are divided are registered in the records of the corporation or the beneficiary owner of such units to the extent of the rights granted by a nominee certificate on file with a corporation.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## **§1092. CONVERSION OF PARTNERSHIP TO LIMITED PARTNERSHIP (REPEALED)**

#### SECTION HISTORY

2005, c. 543, §A2 (NEW). 2009, c. 56, §24 (RP).

## **§1093. CONVERSION OF PARTNERSHIP TO A BUSINESS ENTITY**

**1. Conversion.** A partnership or a limited liability partnership may be converted to a limited partnership, limited liability limited partnership, corporation or limited liability company pursuant to this section.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Terms and conditions.** The terms and conditions of a conversion of a partnership to a limited partnership, limited liability limited partnership, corporation or limited liability company must be approved by all of the partners or as otherwise provided in the partnership agreement.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Organizational documents filed.** After the conversion is approved by the partners, articles of conversion must be executed on behalf of the converting entity by a partner or other duly authorized representative. The articles must:

A. Set forth the name of the entity immediately before the filing of the articles of conversion and the name to which the name of the entity is to be changed, which must be a name that satisfies the organic law of the surviving entity; [ 2005, c. 543, Pt. A, §2 (NEW) .]

B. State the type of entity that the surviving entity will be; [ 2005, c. 543, Pt. A, §2 (NEW) .]

C. Set forth a statement that the plan of entity conversion was duly approved by the partners in the manner required by this Act and the partnership agreement; and [ 2005, c. 543, Pt. A, §2 (NEW) .]

D. If the surviving entity is a filing entity, either contain all the provisions required to be set forth in its public organic document with any other desired provisions that are permitted or have attached a public organic document. [ 2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Effective date of conversion.** The conversion takes effect when the articles of conversion are filed or at any later date specified in the articles of conversion or as provided by the organic laws of the surviving entity.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Liability.** A general partner who becomes a limited partner, general partner in a limited liability limited partnership, shareholder or member as a result of the conversion remains liable as a general partner of a partnership for an obligation incurred by the partnership before the conversion takes effect. If the other party to a transaction with a limited partnership, limited liability limited partnership, corporation or limited liability company reasonably believes when entering the transaction that the limited partner, general partner, shareholder or member is a general partner in a partnership or a general partner in a limited partnership, the limited partner, general partner, shareholder or member is liable for an obligation for which such partner would be personally liable under section 1034 that is incurred by the limited partnership, limited liability limited partnership, corporation or limited liability company within 90 days after the conversion takes effect. The limited partner's, general partner's, shareholder's or member's liability for all other obligations of the limited partnership, limited liability limited partnership, corporation or limited liability company incurred after the conversion takes effect is that of a limited partner, shareholder or member as provided in the jurisdiction in which the limited partnership, limited liability limited partnership, corporation or limited liability company is formed.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1094. EFFECT OF CONVERSION

**1. Same entity.** A partnership that has been converted pursuant to this subchapter is for all purposes the same entity that existed before the conversion.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Effective date.** When a conversion takes effect:

A. All property owned by the converting partnership remains vested in the converted entity; [ 2005, c. 543, Pt. A, §2 (NEW). ]

B. All obligations of the converting partnership continue as obligations of the converted entity; and [ 2005, c. 543, Pt. A, §2 (NEW). ]

C. An action or proceeding pending by or against the converting partnership may be continued as if the conversion had not occurred. [ 2005, c. 543, Pt. A, §2 (NEW). ]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1095. MERGER OF PARTNERSHIPS

**1. Merger pursuant to plan.** Pursuant to a plan of merger approved as provided in subsection 3, a partnership may be merged with one or more partnerships or limited partnerships.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Plan of merger.** The plan of merger must set forth:

A. The name, the jurisdiction of organization and the date of organization of each partnership or limited partnership that is a party to the merger; [ 2005, c. 543, Pt. A, §2 (NEW). ]

B. The name of the surviving entity into which the other partnerships or limited partnerships will merge; [ 2005, c. 543, Pt. A, §2 (NEW). ]

C. Whether the surviving entity is a partnership or a limited partnership and the status of each partner; [2005, c. 543, Pt. A, §2 (NEW).]

D. The terms and conditions of the merger; [2005, c. 543, Pt. A, §2 (NEW).]

E. The manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving entity or into money or other property in whole or part; and [2005, c. 543, Pt. A, §2 (NEW).]

F. The street address of the surviving entity's chief executive office. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Approval of plan.** The plan of merger must be approved:

A. In the case of a partnership that is a party to the merger, by all of the partners, or a number or percentage specified for merger in the partnership agreement; and [2005, c. 543, Pt. A, §2 (NEW).]

B. In the case of a limited partnership that is a party to the merger, by the vote required for approval of a merger by the law of the State or foreign jurisdiction in which the limited partnership is organized and, in the absence of such a specifically applicable law, by all of the partners, notwithstanding a provision to the contrary in the partnership agreement. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Amendment or abandonment.** After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Effective date of merger.** The merger takes effect on the later of:

A. The approval of the plan of merger by all parties to the merger, as provided in subsection 3; [2005, c. 543, Pt. A, §2 (NEW).]

B. The filing of all documents required by law to be filed as a condition to the effectiveness of the merger; or [2005, c. 543, Pt. A, §2 (NEW).]

C. Any effective date specified in the plan of merger. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1096. EFFECT OF MERGER

**1. Effect of merger.** When a merger takes effect:

A. The separate existence of every partnership or limited partnership that is a party to the merger, other than the surviving entity, ceases; [2005, c. 543, Pt. A, §2 (NEW).]

B. All property owned by each of the merged partnerships or limited partnerships vests in the surviving entity; [2005, c. 543, Pt. A, §2 (NEW).]

C. All obligations of every partnership or limited partnership that is a party to the merger become the obligations of the surviving entity; and [2005, c. 543, Pt. A, §2 (NEW).]

D. An action or proceeding pending against a partnership or limited partnership that is a party to the merger may be continued as if the merger had not occurred, or the surviving entity may be substituted as a party to the action or proceeding. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Agent for service of process.** The Secretary of State is the agent for service of process in an action or proceeding against a surviving foreign partnership or limited partnership to enforce an obligation of a partnership or limited partnership that is a party to a merger. The surviving entity shall promptly notify the Secretary of State of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the Secretary of State shall mail a copy of the process to the surviving foreign partnership or limited partnership.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Liability of partner.** A partner of the surviving partnership or limited partnership is liable for:

A. All obligations of a party to the merger for which the partner was personally liable before the merger; [2005, c. 543, Pt. A, §2 (NEW).]

B. All other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the entity; and [2005, c. 543, Pt. A, §2 (NEW).]

C. Except as otherwise provided in section 1034, all obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the entity if the partner is a limited partner. [2005, c. 543, Pt. A, §2 (NEW).]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Obligations incurred before merger.** If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or limited partnership, the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party's obligations to the surviving entity, in the manner provided in section 1087 or in the limited partnership act of the jurisdiction in which the party was formed, as the case may be, as if the merged party were dissolved.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Dissociated partner.** A partner of a party to a merger who does not become a partner of the surviving partnership or limited partnership is dissociated from the entity of which that partner was a partner as of the date the merger takes effect. The surviving entity shall cause the partner's interest in the entity to be purchased under section 1071 or another statute specifically applicable to that partner's interest with respect to a merger. The surviving entity is bound under section 1072 by an act of a general partner dissociated under this subsection, and the partner is liable under section 1073 for transactions entered into by the surviving entity after the merger takes effect.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1097. STATEMENT OF MERGER

**1. Filing of statement.** After a merger, the surviving partnership or limited partnership may file a statement that one or more partnerships or limited partnerships have merged into the surviving entity.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Statement of merger.** A statement of merger must contain:

A. The name, the jurisdiction of organization and the date of organization of each partnership or limited partnership that is a party to the merger; [2005, c. 543, Pt. A, §2 (NEW) .]

B. The name of the surviving entity into which the other partnerships or limited partnerships were merged; [2005, c. 543, Pt. A, §2 (NEW) .]

C. The street address of the surviving entity's chief executive office and of an office in this State, if any; [2005, c. 543, Pt. A, §2 (NEW) .]

D. Whether the surviving entity is a partnership or a limited partnership; and [2005, c. 543, Pt. A, §2 (NEW) .]

E. If the surviving partnership or limited partnership is not organized under the laws of this State, a statement that the surviving partnership or limited partnership:

(1) Agrees that it may be served with process in this State in a proceeding for enforcement of an obligation of a party to the merger that was organized under the laws of this State, as well as for enforcement of an obligation of the surviving partnership or limited partnership arising from the merger; and

(2) Appoints the Secretary of State as its agent for service of process in any such proceeding and the surviving partnership or limited partnership shall specify the address to which a copy of the process must be mailed by the Secretary of State. [2005, c. 543, Pt. A, §2 (NEW) .]

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Name in which property held.** Except as otherwise provided in subsection 4, for the purposes of section 1032, property of the surviving partnership or limited partnership that before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon filing a statement of merger.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Transfer of real property.** For the purposes of section 1032, real property of the surviving partnership or limited partnership that before the merger was held in the name of another party to the merger is property held in the name of the surviving entity. A certified copy of the statement of merger may be recorded in the registry of deeds of the county in which the real property is located as evidence of title, but the failure to record the statement does not affect the validity of the transfer of title.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Incomplete statement.** A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to section 1005, subsection 3, stating the name of a partnership or limited partnership that is a party to the merger in whose name property was held before the merger and the name of the surviving entity, but not containing all of the other information required by subsection 2, operates with respect to the partnerships or limited partnerships named to the extent provided in subsections 3 and 4.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## **§1098. NONEXCLUSIVE**

This subchapter is not exclusive. Partnerships or limited partnerships may be converted or merged in any other manner provided by law. [2005, c. 543, Pt. A, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## **Subchapter 10: MISCELLANEOUS PROVISIONS**

### **HEADING: PL 2005, C. 543, PT. A, §2 (NEW)**

## **§1101. UNIFORMITY OF APPLICATION AND CONSTRUCTION**

This chapter must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. [2005, c. 543, Pt. A, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## **§1102. SHORT TITLE**

This chapter may be known and cited as "the Uniform Partnership Act." [2005, c. 543, Pt. A, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## **§1103. EFFECTIVE DATE**

This chapter takes effect July 1, 2007. [2005, c. 543, Pt. A, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## **§1104. APPLICABILITY**

**1. Application before July 1, 2007.** Before July 1, 2007, this chapter governs only a partnership formed:

A. After July 1, 2007, except a partnership that is continuing the business of a dissolved partnership under former Title 31, section 318; and [2005, c. 543, Pt. A, §2 (NEW).]

B. Before July 1, 2007 that elects, as provided by subsection 3, to be governed by this chapter. [2005, c. 543, Pt. A, §2 (NEW).]

[2005, c. 543, Pt. A, §2 (NEW).]

**2. Application on and after July 1, 2007.** On and after July 1, 2007, this chapter governs all partnerships.

[2005, c. 543, Pt. A, §2 (NEW).]

**3. Election before July 1, 2007.** Before July 1, 2007, a partnership voluntarily may elect, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be governed by this chapter. The provisions of this chapter relating to the liability of the partnership's partners to 3rd parties apply to limit those partners' liability to a 3rd party who had done business with the partnership within one year before the partnership's election to be governed by this chapter only if the 3rd party knows or has received a notification of the partnership's election to be governed by this chapter. A partnership may elect to be governed by this chapter by filing a statement of election stating the name of the partnership and that the partnership has made the election pursuant to this section.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).

## §1105. RULES OF CONSTRUCTION

**1. Savings clause.** This chapter does not affect an action or proceeding commenced or right accrued before this chapter takes effect.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**2. Freedom to contract.** It is the policy of the chapter to give maximum effect to the freedom of contract and to the enforceability of partnership agreements.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**3. Law and equity.** Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**4. Statutes in derogation of common law.** Rules that statutes in derogation of the common law are to be strictly construed do not apply to this chapter.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

**5. Obligations of contract.** Neither this chapter nor any amendment of this chapter may be construed to impair the obligations of any contract existing when this chapter or amendment goes into effect.

[ 2005, c. 543, Pt. A, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §A2 (NEW).



## Chapter 19: UNIFORM LIMITED PARTNERSHIP ACT

### Subchapter 1: GENERAL PROVISIONS HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

#### §1301. SHORT TITLE

This chapter may be known and cited as "the Uniform Limited Partnership Act of 2007." [ 2005, c. 543, Pt. C, §2 (NEW). ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

#### §1302. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [ 2005, c. 543, Pt. C, §2 (NEW). ]

**1. Certificate of limited partnership.** "Certificate of limited partnership" means the certificate required by section 1321. The term includes the certificate as amended or restated.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Contribution.** "Contribution," except in the phrase "right of contribution," means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**3. Debtor in bankruptcy.** "Debtor in bankruptcy" means a person that is the subject of:

A. An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. A comparable order under federal, state or foreign law governing insolvency. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**4. Designated office.**

[ 2007, c. 323, Pt. F, §1 (RP); 2007, c. 323, Pt. G, §4 (AFF) . ]

**5. Distribution.** "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**6. Foreign limited liability limited partnership.** "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to section 1354, subsection 3.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**7. Foreign limited partnership.** "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this State and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited liability limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**8. General partner.** "General partner" means:

A. With respect to a limited partnership, a person that:

- (1) Becomes a general partner under section 1351; or
- (2) Was a general partner in a limited partnership when the limited partnership became subject to this chapter under section 1453, subsection 1 or 2; and [ 2005, c. 543, Pt. C, §2 (NEW) . ]

B. With respect to a foreign limited partnership, a person that has rights, powers and obligations similar to those of a general partner in a limited partnership. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**9. Limited liability limited partnership.** "Limited liability limited partnership," except in the phrase "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**10. Limited partner.** "Limited partner" means:

A. With respect to a limited partnership, a person that:

- (1) Becomes a limited partner under section 1341; or
- (2) Was a limited partner in a limited partnership when the limited partnership became subject to this chapter under section 1453, subsection 1 or 2; and [ 2005, c. 543, Pt. C, §2 (NEW) . ]

B. With respect to a foreign limited partnership, a person that has rights, powers and obligations similar to those of a limited partner in a limited partnership. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**11. Limited partnership.** "Limited partnership," except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership," means an entity having one or more general partners and one or more limited partners that is formed under this chapter by 2 or more persons or becomes subject to this chapter under subchapter 11 or section 1453, subsection 1 or 2. The term includes a limited liability limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**12. Partner.** "Partner" means a limited partner or general partner.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**13. Partnership agreement.** "Partnership agreement" means the partners' agreement, whether oral, implied, in a record or in any combination, concerning the limited partnership. The term includes the agreement as amended.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**14. Person.** "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**15. Person dissociated as general partner.** "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**16. Principal office.** "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this State.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**17. Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**18. Required information.** "Required information" means the information that a limited partnership is required to maintain under section 1311.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**19. Sign.** "Sign" means:

A. To execute or adopt a tangible symbol with the present intent to authenticate a record; or [ 2005, c. 543, Pt. C, §2 (NEW) . ]

B. To attach or logically associate an electronic symbol, sound or process to or with a record with the present intent to authenticate the record. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**20. State.** "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**21. Transfer.** "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift and transfer by operation of law.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**22. Transferable interest.** "Transferable interest" means a partner's right to receive distributions.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**23. Transferee.** "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §2 (NEW). 2007, c. 323, Pt. F, §1 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

### §1303. KNOWLEDGE AND NOTICE

**1. Knowledge.** A person knows a fact if the person has actual knowledge of it.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Notice.** A person has notice of a fact if the person:

A. Knows of it; [2005, c. 543, Pt. C, §2 (NEW).]

B. Has received a notification of it; [2005, c. 543, Pt. C, §2 (NEW).]

C. Has reason to know it exists from all of the facts known to the person at the time in question; or [2005, c. 543, Pt. C, §2 (NEW).]

D. Has notice of it under subsection 3 or 4. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Certificate of limited partnership.** A certificate of limited partnership on file in the office of the Secretary of State is notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except as otherwise provided in subsection 4, the certificate is not notice of any other fact.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Notice of certain events.** A person has notice of:

A. Another person's dissociation as a general partner 90 days after the effective date of an amendment to the certificate of limited partnership that states that the other person has dissociated or 90 days after the effective date of a statement of dissociation pertaining to the other person, whichever occurs first; [2005, c. 543, Pt. C, §2 (NEW).]

B. A limited partnership's dissolution 90 days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved; [2005, c. 543, Pt. C, §2 (NEW).]

C. A limited partnership's termination 90 days after the effective date of a statement of termination; [2005, c. 543, Pt. C, §2 (NEW).]

D. A limited partnership's conversion under subchapter 11 90 days after the effective date of the articles of conversion; or [2005, c. 543, Pt. C, §2 (NEW).]

E. A merger under subchapter 11 90 days after the effective date of the articles of merger. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Notifies or gives notification.** A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Receives notification.** A person receives a notification when the notification:

A. Comes to the person's attention; or [2005, c. 543, Pt. C, §2 (NEW).]

B. Is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications. [ 2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**7. Person other than individual; reasonable diligence.** Except as otherwise provided in subsection 8, a person other than an individual knows, has notice or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the person knows, has notice or receives a notification of the fact or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. A person other than an individual exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**8. General partner.** A general partner's knowledge, notice or receipt of a notification of a fact relating to the limited partnership is effective immediately as knowledge of, notice to or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice or receipt of a notification of a fact relating to the limited partnership is not effective as knowledge of, notice to or receipt of a notification by the limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1304. NATURE, PURPOSE AND DURATION OF ENTITY

**1. Nature.** A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Purpose.** A limited partnership may be organized under this chapter for any lawful purpose.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Duration.** A limited partnership has a perpetual duration.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1305. POWERS

A limited partnership has the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by a breach of the partnership agreement or violation of a duty to the partnership. [2005, c. 543, Pt. C, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1306. GOVERNING LAW

The law of this State governs relations among the partners of a limited partnership and between the partners and the limited partnership and the liability of partners as partners for an obligation of the limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1307. SUPPLEMENTAL PRINCIPLES OF LAW; RATE OF INTEREST

**1. Principles of law and equity supplement.** Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Default interest rate.** If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in Title 14, section 1602-B.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1308. LIMITED PARTNERSHIP NAME; ASSUMED NAME

**1. Requirements for real name.** This subsection governs the real name of a limited partnership.

A. A limited partnership name:

- (1) May contain the name of any partner;
- (2) Must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP," unless the limited partnership is filing an assumed name under subsection 2 or a registration of name under section 1309, subsection 2. If the phrase "Limited Partnership" is used, a limited partnership may also use the abbreviation "L.P." or "LP" without filing an assumed name under subsection 2; and
- (3) May not contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." unless it has been designed as a limited liability limited partnership. If so designated, the name must contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and may not contain the abbreviation "L.P." or "LP." [2005, c. 543, Pt. C, §2 (NEW) .]

B. Except as authorized by paragraphs C and D, a limited partnership name must be distinguishable on the records of the Secretary of State from:

- (1) The name of a corporation, nonprofit corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State;
- (2) Assumed, fictitious, reserved and registered name filings for all entities; and
- (3) Marks registered under Title 10, chapter 301-A, unless the registered owner or holder of the mark is the same person or entity as the limited partnership seeking to use a name that is not distinguishable on the records of the Secretary of State and files proof of ownership with the Secretary of State. [ 2005, c. 543, Pt. C, §2 (NEW). ]

C. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

- (1) Consists of or comprises language that is obscene;
- (2) Inappropriately promotes abusive or unlawful activity;
- (3) Falsely suggests an association with public institutions; or
- (4) Violates any other provision of the law of this State with respect to names. [ 2005, c. 543, Pt. C, §2 (NEW). ]

D. A limited partnership may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the Secretary of State from one or more of the names described in paragraph B. The Secretary of State shall authorize use of the name applied for if:

- (1) The entity in possession of the name applied for consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable on the records of the Secretary of State from the name of the applicant; or
- (2) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State. [ 2005, c. 543, Pt. C, §2 (NEW). ]

E. A limited partnership may use the name, including the assumed or fictitious name, of another domestic or foreign limited partnership that is used in this State if the other limited partnership is organized or authorized to transact business in this State and the limited partnership proposing to use the name:

- (1) Has merged with the other limited partnership;
- (2) Has been converted into another limited partnership; or
- (3) Has transferred substantially all of its assets including the conflicting name to the limited partnership. [ 2005, c. 543, Pt. C, §2 (NEW). ]

F. In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

- (1) Words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "limited liability limited partnership," "service corporation" and "professional corporation";
- (2) The presence or absence of the words or symbols of the words "and" and "the"; and
- (3) Differences in the use of punctuation, capitalization or special characters. [ 2005, c. 543, Pt. C, §2 (NEW). ]

G. If a foreign limited partnership authorized to transact business in this State changes its name to one that does not satisfy the requirements of this section, it may not transact business in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended application for authority under section 1412, subsection 2 that is accompanied by a statement of use of a fictitious name under section 1415. [ 2005, c. 543, Pt. C, §2 (NEW). ]

H. Notwithstanding subsection 2, the name of a limited partnership may not be distinguishable on the records of the Secretary of State if the limited partnership was organized under the laws of this State prior to January 1, 1992 or the foreign limited partnership was authorized to do business in this State prior to January 1, 1992 and had the right to use the name as its legal name prior to January 1, 1992. [2005, c. 543, Pt. C, §2 (NEW).]

I. Subsection 2 does not apply to the name of any limited partnership, the certificate of which is suspended, on and after the 3rd anniversary of the suspension. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**2. Requirements for use of assumed name.** This subsection governs the use of an assumed name by a limited partnership.

A. As used in this subsection, "assumed name" means a trade name or any name other than the real name of a limited partnership except a fictitious name. [2005, c. 543, Pt. C, §2 (NEW).]

B. Upon complying with this subsection, a domestic limited partnership or foreign limited partnership authorized to transact business in this State may transact its business in this State under one or more assumed names. [2005, c. 543, Pt. C, §2 (NEW).]

C. Prior to transacting business in this State under an assumed name, a limited partnership shall execute and deliver to the Secretary of State for filing a statement setting forth:

- (1) The limited partnership name;
- (2) That the limited partnership intends to transact business under an assumed name;
- (3) The assumed name that the limited partnership proposes to use;
- (4) If the assumed name is not to be used at all of the limited partnership's places of business in this State, the locations where it will be used; and
- (5) If a foreign limited partnership:
  - (a) The jurisdiction of organization and its date of organization; and
  - (b) The date on which it was authorized to transact business in this State. [2005, c. 543, Pt. C, §2 (NEW).]

D. A separate statement must be executed and delivered for filing with respect to each assumed name that the limited partnership proposes to use. [2005, c. 543, Pt. C, §2 (NEW).]

E. Each assumed name must comply with the requirements of subsection 1. [2005, c. 543, Pt. C, §2 (NEW).]

F. If a limited partnership uses an assumed name without complying with the requirements of this subsection, the continued use of the assumed name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed name. [2005, c. 543, Pt. C, §2 (NEW).]

G. Notwithstanding its compliance with the requirements of this section, the use of an assumed name may be enjoined upon suit of the Attorney General or of any person adversely affected by such use if:

- (1) The assumed name did not, at the time the statement required by this subsection was filed, comply with the requirements of subsection 1; or
- (2) The assumed name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law. [2005, c. 543, Pt. C, §2 (NEW).]



H. The mere filing of a statement under this subsection does not constitute actual use of the assumed name set out in that statement for purposes of determining priority of rights. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

I. A limited partnership may terminate an assumed name by executing and delivering a statement setting forth:

- (1) The name of the limited partnership;
- (2) That the limited partnership no longer intends to transact business under the assumed name; and
- (3) The assumed name the limited partnership intends to terminate. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW) .

### **§1309. RESERVED NAME; REGISTERED NAME OF FOREIGN LIMITED PARTNERSHIP**

**1. Reserve use of name.** A person may reserve the exclusive use of a limited partnership name, including an assumed or fictitious name, by executing and delivering for filing an application to the Secretary of State.

A. The application to reserve a name must set forth:

- (1) The name and address of the applicant; and
- (2) The name proposed to be reserved. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

B. If the Secretary of State finds that the limited partnership name applied for is distinguishable on the records of the Secretary of State pursuant to section 1308, the Secretary of State shall reserve the name for the applicant's exclusive use for a period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

[ 2013, c. 99, §4 (AMD) . ]

C. The owner of a reserved limited partnership name under this subsection may transfer the reservation to another person by executing and delivering for filing to the Secretary of State a notice of the transfer, signed by the transferor, that states the name and address of the transferee. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2013, c. 99, §4 (AMD) . ]

**2. Register limited partnership name.** A foreign limited partnership may register its limited partnership name by executing and delivering for filing an application to the Secretary of State.

A. The application to register a limited partnership name must set forth:

- (1) The name of the limited partnership;
- (2) The jurisdiction of its organization and the date of its organization;
- (3) The address of its principal office wherever located;
- (4) A brief description of the nature of the business in which it is engaged; and

(5) Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited partnership records in the state or country under whose law the foreign limited partnership is organized. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing.

[ 2005, c. 543, Pt. C, §2 (NEW). ]

B. If the Secretary of State finds that the limited partnership name applied for is distinguishable on the records of the Secretary of State pursuant to section 1308, the Secretary of State shall register the name for the foreign limited partnership's exclusive use upon the effective date of the application until the end of the calendar year in which the application was filed. [ 2005, c. 543, Pt. C, §2 (NEW). ]

C. A foreign limited partnership whose registration is effective may renew it for a successive year by delivering for filing to the Secretary of State a renewal application that complies with the requirements of this subsection between October 1st and December 31st. The renewal application, when filed, renews the registration for the following calendar year. [ 2005, c. 543, Pt. C, §2 (NEW). ]

D. After its registration is effective, a foreign limited partnership may qualify as a foreign limited partnership under the registered name or may consent in writing to the use of that name by a limited partnership organized under this chapter or by another foreign limited partnership authorized to transact business in this State. The registration terminates when the domestic limited partnership is organized or the foreign limited partnership qualifies or consents to the qualification of another foreign limited partnership under the registered name. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2013, c. 99, §4 (AMD).

## §1310. EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE PROVISIONS

**1. Agreement governs; default.** Except as otherwise provided in subsection 2, the partnership agreement governs relations among the partners and between the partners and the partnership. It is the policy of this chapter to give maximum effect to the principle of freedom of contract and to the enforceability of partnership agreements. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Nonwaivable provisions.** A partnership agreement may not:

A. Vary a limited partnership's power under section 1305 to sue, be sued and defend in its own name; [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. Vary the law applicable to a limited partnership under section 1306; [ 2005, c. 543, Pt. C, §2 (NEW). ]

C. Vary the requirements of section 1324; [ 2005, c. 543, Pt. C, §2 (NEW). ]

D. Vary the information required under section 1311 or unreasonably restrict the right to information under section 1344 or 1357, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use; [ 2005, c. 543, Pt. C, §2 (NEW). ]

E. Vary the power of a person to dissociate as a general partner under section 1374, subsection 1 except to require that the notice under section 1373, subsection 1 be in a record; [ 2005, c. 543, Pt. C, §2 (NEW). ]

F. Vary the power of a court to decree dissolution in the circumstances specified in section 1392; [2005, c. 543, Pt. C, §2 (NEW).]

G. Vary the requirement to wind up the partnership's business as specified in section 1393; [2005, c. 543, Pt. C, §2 (NEW).]

H. Unreasonably restrict the right to maintain an action under subchapter 10; [2005, c. 543, Pt. C, §2 (NEW).]

I. Restrict the right of a partner under section 1440, subsection 1 to approve a conversion or merger or the right of a general partner under section 1440, subsection 2 to consent to an amendment to the certificate of limited partnership that deletes a statement that the limited partnership is a limited liability limited partnership; or [2005, c. 543, Pt. C, §2 (NEW).]

J. Restrict rights under this chapter of a person other than a partner or a transferee. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**3. Implied covenant of good faith and fair dealing.** Notwithstanding any other provision of this chapter, there exists, for purposes of this chapter, an implied contractual covenant of good faith and fair dealing in every partnership agreement which may not be eliminated by the terms of the partnership agreement.

[2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1311. REQUIRED INFORMATION

A limited partnership shall maintain at its principal office the following information: [2007, c. 323, Pt. F, §2 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

**1. List of partners.** A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;

[2005, c. 543, Pt. C, §2 (NEW).]

**2. Certificate, amendments, restatements, powers of attorney.** A copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment or restatement has been signed;

[2005, c. 543, Pt. C, §2 (NEW).]

**3. Conversion or merger.** A copy of any filed articles of conversion or merger;

[2005, c. 543, Pt. C, §2 (NEW).]

**4. Income tax returns and reports.** A copy of the limited partnership's federal, state and local income tax returns and reports, if any, for the 3 most recent years;

[2005, c. 543, Pt. C, §2 (NEW).]

**5. Partnership agreement, amendments.** A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Financial statement.** A copy of any financial statement of the limited partnership for the 3 most recent years;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**7. Annual reports.** A copy of the 3 most recent annual reports delivered by the limited partnership to the Secretary of State pursuant to section 1330;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**8. Record of consent.** A copy of any record made by the limited partnership during the past 3 years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement; and

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**9. Record of contributions, transferable interests, events causing dissolution.** Unless contained in a partnership agreement made in a record, a record stating:

A. The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner; [ 2005, c. 543, Pt. C, §2 (NEW) .]

B. The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made; [ 2005, c. 543, Pt. C, §2 (NEW) .]

C. For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and [ 2005, c. 543, Pt. C, §2 (NEW) .]

D. Events upon the happening of which the limited partnership is to be dissolved and its activities wound up. [ 2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §2 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1312. BUSINESS TRANSACTIONS OF PARTNER WITH PARTNERSHIP

A partner may lend money to and transact other business with the limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner. [ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1313. DUAL CAPACITY

A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations,

duties and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties and restrictions under this chapter and the partnership agreement for limited partners. [2005, c. 543, Pt. C, §2 (NEW).]

SECTION HISTORY

2005, c. 543, §C2 (NEW).

**§1314. REGISTERED OFFICE; REGISTERED AGENT**

*(REPEALED)*

SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §3 (RP). 2007, c. 323, Pt. G, §4 (AFF).

**§1314-A. REGISTERED AGENT OF DOMESTIC OR FOREIGN LIMITED PARTNERSHIP**

Each limited partnership must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A. [2007, c. 535, Pt. B, §10 (NEW).]

SECTION HISTORY

2007, c. 535, Pt. B, §10 (NEW).

**§1315. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT**

*(REPEALED)*

SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §4 (RP). 2007, c. 323, Pt. G, §4 (AFF).

**§1316. RESIGNATION OF REGISTERED AGENT**

*(REPEALED)*

SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §5 (RP). 2007, c. 323, Pt. G, §4 (AFF).

**§1317. SERVICE OF PROCESS**

*(REPEALED)*

SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §6 (RP). 2007, c. 323, Pt. G, §4 (AFF).

**§1317-A. SERVICE OF PROCESS ON DOMESTIC OR FOREIGN LIMITED PARTNERSHIP**

Service of process, notice or demand required or permitted by law on a domestic or foreign limited partnership authorized to transact business in this State is governed by Title 5, section 113. [2007, c. 323, Pt. F, §7 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. F, §7 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

## §1318. CONSENT AND PROXIES OF PARTNERS

Action requiring the consent of partners under this chapter may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact. [2005, c. 543, Pt. C, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## Subchapter 2: FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP AND OTHER FILINGS HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

## §1321. FORMATION OF LIMITED PARTNERSHIP; CERTIFICATE OF LIMITED PARTNERSHIP

**1. Certificate of limited partnership.** In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the Secretary of State for filing. The certificate must state:

- A. The name of the limited partnership, which must comply with section 1308; [2005, c. 543, Pt. C, §2 (NEW).]
- B. The information required by Title 5, section 105, subsection 1; [2007, c. 323, Pt. F, §8 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]
- C. The name and the street and mailing address of each general partner; [2005, c. 543, Pt. C, §2 (NEW).]
- D. Whether the limited partnership is a limited liability limited partnership; and [2005, c. 543, Pt. C, §2 (NEW).]
- E. Any additional information required by subchapter 11. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2007, c. 323, Pt. F, §8 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Other matters.** A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in section 1310, subsection 2 in a manner inconsistent with that section.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Formed when filed.** If there has been substantial compliance with subsection 1, subject to section 1326, subsection 3 a limited partnership is formed when the Secretary of State files the certificate of limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Inconsistencies between agreement and filed document.** Subject to subsection 2, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed statement of dissociation, termination or change or filed articles of conversion or merger:

- A. The partnership agreement prevails as to partners and transferees; and [2005, c. 543, Pt. C, §2 (NEW).]

B. The filed certificate of limited partnership, statement of dissociation, termination or change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §8 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1322. AMENDMENT OR RESTATEMENT OF CERTIFICATE

**1. Amendment of certificate.** In order to amend its certificate of limited partnership, a limited partnership must deliver to the Secretary of State for filing an amendment or, pursuant to subchapter 11, articles of merger stating:

A. The name of the limited partnership; [2005, c. 543, Pt. C, §2 (NEW).]

B. The date of filing of its initial certificate; and [2005, c. 543, Pt. C, §2 (NEW).]

C. The changes the amendment makes to the certificate as most recently amended or restated. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW) .]

**2. Changes requiring prompt delivery of amendment.** A limited partnership shall promptly deliver to the Secretary of State for filing an amendment to a certificate of limited partnership to reflect:

A. The admission of a new general partner; [2005, c. 543, Pt. C, §2 (NEW).]

B. The dissociation of a person as a general partner; [2005, c. 543, Pt. C, §2 (NEW).]

C. The appointment of a person to wind up the limited partnership's activities under section 1393, subsection 3 or 4; [2007, c. 323, Pt. F, §9 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

D. The change in name or street address of one or more of its general partners; or [2007, c. 323, Pt. F, §10 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

E. A change in the registered agent except as provided in Title 5, section 109 or 110 for a change in the current name, address or identity of the registered agent or as provided in Title 5, section 111 for the resignation of the registered agent. [2007, c. 323, Pt. F, §11 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. F, §§9-11 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**3. Responsibility of general partner.** A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:

A. Cause the certificate to be amended; or [2005, c. 543, Pt. C, §2 (NEW).]

B. If appropriate, deliver to the Secretary of State for filing a statement of correction pursuant to section 1327. [2007, c. 323, Pt. F, §12 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. F, §12 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**4. Amendment at any time.** A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Delivery of restated certificate.** A restated certificate of limited partnership may be delivered to the Secretary of State for filing in the same manner as an amendment.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Effective when filed.** Subject to section 1326, subsection 3, an amendment or restated certificate is effective when filed by the Secretary of State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §§9-12 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

### §1323. STATEMENT OF TERMINATION

A dissolved limited partnership that has completed winding up may deliver to the Secretary of State for filing a statement of termination that states: [2005, c. 543, Pt. C, §2 (NEW) .]

**1. Name.** The name of the limited partnership;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Date of initial certificate.** The date of filing of its initial certificate of limited partnership; and

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Other information.** Any other information as determined by the general partners filing the statement or by a person appointed pursuant to section 1393, subsection 3 or 4.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

At the time of filing the statement under this section, the Secretary of State may require the limited partnership to file the annual report required to be filed under section 1330, subsection 1 and pay any fees or penalties owed to the Secretary of State under section 1399. [2007, c. 231, §36 (NEW); 2007, c. 231, §40 (AFF) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 231, §36 (AMD). 2007, c. 231, §40 (AFF) .

### §1324. SIGNING OF RECORDS

**1. Required signatures.** Each record delivered to the Secretary of State for filing pursuant to this chapter must be signed in the following manner.

A. An initial certificate of limited partnership must be signed by all general partners listed in the certificate. [2005, c. 543, Pt. C, §2 (NEW) .]



B. An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership must be signed by all general partners listed in the certificate. [2005, c. 543, Pt. C, §2 (NEW).]

C. An amendment designating as general partner a person admitted under section 1391, subsection 3, paragraph B following the dissociation of a limited partnership's last general partner must be signed by that person. [2005, c. 543, Pt. C, §2 (NEW).]

D. An amendment required by section 1393, subsection 3 following the appointment of a person to wind up the dissolved limited partnership's activities must be signed by that person. [2005, c. 543, Pt. C, §2 (NEW).]

E. Any other amendment must be signed by:

- (1) At least one general partner listed in the certificate;
- (2) Each other person designated in the amendment as a new general partner; and
- (3) Each person that the amendment indicates has dissociated as a general partner, unless:
  - (i) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or
  - (ii) The person has previously delivered to the Secretary of State for filing a statement of dissociation. [2005, c. 543, Pt. C, §2 (NEW).]

F. A restated certificate of limited partnership must be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate must be signed in a manner that satisfies that paragraph. [2005, c. 543, Pt. C, §2 (NEW).]

G. A statement of termination must be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to section 1393, subsection 3 or 4 to wind up the dissolved limited partnership's activities. [2005, c. 543, Pt. C, §2 (NEW).]

H. Articles of conversion must be signed by each general partner listed in the certificate of limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

I. Articles of merger must be signed as provided in section 1438, subsection 1. [2005, c. 543, Pt. C, §2 (NEW).]

J. Any other record delivered on behalf of a limited partnership to the Secretary of State for filing must be signed by at least one general partner listed in the certificate. [2005, c. 543, Pt. C, §2 (NEW).]

K. A statement by a person pursuant to section 1375, subsection 1, paragraph D stating that the person has dissociated as a general partner must be signed by that person. [2005, c. 543, Pt. C, §2 (NEW).]

L. A statement of withdrawal by a person pursuant to section 1346 must be signed by that person. [2005, c. 543, Pt. C, §2 (NEW).]

M. A record delivered on behalf of a foreign limited partnership to the Secretary of State for filing must be signed by at least one general partner of the foreign limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

N. Any other record delivered on behalf of any person to the Secretary of State for filing must be signed by that person. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Attorney-in-fact.** Any person may sign by an attorney-in-fact any record to be filed pursuant to this chapter.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1325. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER

**1. Court order.** If a person required by this chapter to sign a record or deliver a record to the Secretary of State for filing does not do so, any other person that is aggrieved may petition the Superior Court to order:

- A. The person to sign the record; [ 2005, c. 543, Pt. C, §2 (NEW) .]
- B. The person to deliver the record to the Secretary of State for filing; or [ 2005, c. 543, Pt. C, §2 (NEW) .]
- C. The Secretary of State to file the record unsigned. [ 2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Party to action.** If the person aggrieved under subsection 1 is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection 1 may seek the remedies provided in subsection 1 in the same action in combination or in the alternative.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Effective without signature.** A record filed unsigned pursuant to this section is effective without being signed.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1326. DELIVERY TO AND FILING OF RECORDS BY SECRETARY OF STATE; EFFECTIVE TIME AND DATE

**1. Requirements for filing.** A record authorized or required to be delivered to the Secretary of State for filing under this chapter must be captioned to describe the record's purpose, be in a medium permitted by the Secretary of State and be delivered to the Secretary of State. Unless the Secretary of State determines that a record does not comply with the filing requirements of this chapter, and if all filing fees have been paid, the Secretary of State shall file the record and:

- A. For a statement of dissociation, send:
  - (1) A copy of the filed statement and a receipt for the fees to the person the statement indicates has dissociated as a general partner; and
  - (2) A copy of the filed statement and receipt to the limited partnership; [ 2005, c. 543, Pt. C, §2 (NEW) .]
- B. For a statement of withdrawal, send:
  - (1) A copy of the filed statement and a receipt for the fees to the person on whose behalf the record was filed; and

(2) If the statement refers to an existing limited partnership, a copy of the filed statement and receipt to the limited partnership; and [2005, c. 543, Pt. C, §2 (NEW).]

C. For all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**2. Certified copy upon request.** Upon request and payment of a fee, the Secretary of State shall send to the requester a certified copy of the requested record.

[2005, c. 543, Pt. C, §2 (NEW).]

**3. Effective date; specified; default.** Except as otherwise provided in section 1327, a record delivered to the Secretary of State for filing under this chapter may specify an effective time and a delayed effective date. Except as otherwise provided in this chapter, a record filed by the Secretary of State is effective:

A. If the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the Secretary of State endorsement of the date and time on the record; [2005, c. 543, Pt. C, §2 (NEW).]

B. If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record; [2005, c. 543, Pt. C, §2 (NEW).]

C. If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:

(1) The specified date; and

(2) The 90th day after the record is filed; or [2005, c. 543, Pt. C, §2 (NEW).]

D. If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:

(1) The specified date; and

(2) The 90th day after the record is filed. [2005, c. 543, Pt. C, §2 (NEW).]

[2007, c. 323, Pt. F, §13 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §13 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1327. CORRECTING FILED RECORD

**1. Statement of correction.** A limited partnership or foreign limited partnership may deliver to the Secretary of State for filing a statement of correction to correct a record previously delivered by the limited partnership or foreign limited partnership to the Secretary of State and filed by the Secretary of State, if at the time of filing the record contained false or erroneous information or was defectively signed.

[2005, c. 543, Pt. C, §2 (NEW).]

**2. Contents of statement.** A statement of correction may not state a delayed effective date and must:

A. Describe the record to be corrected, including its filing date; [2005, c. 543, Pt. C, §2 (NEW).]

B. Specify the incorrect information and the reason it is incorrect or the manner in which the signing was defective; and [2005, c. 543, Pt. C, §2 (NEW).]

C. Correct the incorrect information or defective signature. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Effective date of correction.** When filed by the Secretary of State, a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed:

A. For the purposes of section 1303, subsections 3 and 4; and [2005, c. 543, Pt. C, §2 (NEW).]

B. As to persons relying on the uncorrected record and adversely affected by the correction. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1328. LIABILITY FOR FALSE INFORMATION IN FILED RECORD

**1. Damages for record containing false information.** If a record delivered to the Secretary of State for filing under this chapter and filed by the Secretary of State contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from:

A. A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and [2005, c. 543, Pt. C, §2 (NEW).]

B. A general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment under section 1322, file a petition pursuant to section 1325 or deliver to the Secretary of State for filing a change of registered agent as required by Title 5, section 108 or a statement of correction as required by section 1327. [2007, c. 323, Pt. F, §14 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

[ 2007, c. 323, Pt. F, §14 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Signing constitutes affirmation.** Signing a record authorized or required to be filed under this chapter constitutes an affirmation under the penalties of perjury that the facts stated in the record are true.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §14 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

### §1329. CERTIFICATE OF EXISTENCE; CERTIFICATE OF AUTHORITY; CERTIFICATE OF FACT

**1. Application.** Any person may apply to the Secretary of State for a certificate of existence for a domestic limited partnership or a certificate of authority for a foreign limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Contents.** A certificate of existence or certificate of authority sets forth:

- A. The limited partnership's name used in this State; [2005, c. 543, Pt. C, §2 (NEW).]
- B. That, if a domestic limited partnership, the limited partnership is duly formed under the laws of this State and the date of its formation; [2005, c. 543, Pt. C, §2 (NEW).]
- C. That, if a foreign limited partnership, the foreign limited partnership is authorized to transact business in this State, the date on which the limited partnership was authorized to transact business in this State and its jurisdiction of organization; [2005, c. 543, Pt. C, §2 (NEW).]
- D. That all fees and penalties owed to this State have been paid if:
  - (1) Payment is reflected in the records of the Secretary of State; and
  - (2) Nonpayment affects the existence or authorization of the domestic or foreign limited partnership; [2005, c. 543, Pt. C, §2 (NEW).]
- E. That the limited partnership's most recent annual report required by section 1330 has been delivered to the Secretary of State; and [2005, c. 543, Pt. C, §2 (NEW).]
- F. Any facts of record in the office of the Secretary of State that may be requested by the applicant under subsection 1. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Evidence of existence or authority.** Subject to any qualification stated in the certificate, a certificate of existence or certificate of authority issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign limited partnership is in existence or is authorized to transact business in this State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Certificate of fact.** In addition to the certificate authorized under subsection 2, the Secretary of State may issue a certificate attesting to any fact of record in the office of the Secretary of State that may be requested by the applicant under subsection 1.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## **§1330. ANNUAL REPORT AND AMENDED ANNUAL REPORT OF DOMESTIC AND FOREIGN LIMITED PARTNERSHIPS; FAILURE TO FILE ANNUAL REPORT; PENALTY**

**1. Annual report.** Each domestic limited partnership and each foreign limited partnership authorized to do business in this State shall file, within the time prescribed by this chapter, an annual report.

A. The annual report must set forth:

- (1) The name of the domestic or foreign limited partnership;
- (1-A) The jurisdiction of organization of the limited partnership;
- (2) The information required by Title 5, section 105, subsection 1;
- (3) A brief statement of the character of the business in which the limited partnership is actually engaged in this State, if any;
- (4) The name and business or residence address of each general partner, including the street or rural route number, town or city and state; and

(5) The address of its principal office, wherever located. [2007, c. 323, Pt. F, §15 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

B. The Secretary of State shall specify by rule the period of time to which the annual report applies as provided in paragraph C. The information contained in the annual report must be current as of the date the report is signed. [2005, c. 543, Pt. C, §2 (NEW).]

C. The annual report must be executed and signed by a general partner or any other duly authorized individual. Subject to rules adopted under section 1456, the report must be delivered to the Secretary of State or a designee for filing. Proof to the satisfaction of the Secretary of State that, prior to the date that penalties become effective for late delivery of annual reports as established by the Secretary of State by rule, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, or delivered by electronic means as provided by the Secretary of State, is deemed a compliance with this requirement. One copy of the report, together with the filing fee required by this chapter, must be delivered for filing to the Secretary of State, who shall file the report if the Secretary of State finds that it conforms to the requirements of this chapter. If the Secretary of State finds that the report does not so conform, the Secretary of State shall promptly mail or otherwise return the report to the limited partnership for any necessary corrections. The penalties prescribed by this chapter for failure to file the report within the time provided in this section do not apply if the report is corrected to conform to the requirements of this chapter and returned to the Secretary of State within 30 days from the date on which it was so mailed or otherwise returned to the limited partnership by the Secretary of State. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2007, c. 323, Pt. F, §15 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Amended annual report; period for filing.** If the information contained in an annual report filed under subsection 1 has changed, a domestic or foreign limited partnership may, if it determines it to be necessary, deliver to the Secretary of State for filing an amended annual report to change the information on file. The amended annual report must be executed as provided in subsection 1, paragraph C.

A. An amended annual report must set forth:

- (1) The name of the domestic or foreign limited partnership, the jurisdiction of its formation and its date of formation;
- (2) The date on which the original annual report was filed; and
- (3) The information that has changed and the date on which it changed. [2005, c. 543, Pt. C, §2 (NEW).]

B. An amended annual report may be filed by the domestic or foreign limited partnership after the date of the original filing and until December 31st of that filing year. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Failure to file annual report; penalty.** A domestic or foreign limited partnership that is required to deliver an annual report for filing as provided in subsection 1 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the late filing penalty described in section 1460, subsection 19, as long as the report is received by the Secretary of State prior to revocation or administrative dissolution. Upon a limited partnership's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 5 and Title 5, chapter 375, shall revoke a foreign limited partnership's authority to do business in this State and administratively dissolve a domestic limited partnership. The Secretary of State shall use the procedures set forth in section 1399 to administratively dissolve a domestic limited partnership and the procedure set forth in section 1416 to revoke a foreign limited partnership's authority to transact business in this State. A domestic limited partnership that has been administratively dissolved under section 1399 must follow the requirements set forth in section 1400 to reinstate.

A. If the Secretary of State finds that any annual report of a domestic or foreign limited partnership delivered for filing does not conform with the requirements of subsection 1, the report must be returned for correction. [2005, c. 543, Pt. C, §2 (NEW).]

B. If the annual report of a domestic or foreign limited partnership is not delivered for filing within the time specified in subsection 1, the limited partnership is excused from the liability provided in this section and from any other penalty for failure to file timely the report if it establishes, to the satisfaction of the Secretary of State, that failure to file was the result of excusable neglect and it furnishes the Secretary of State a copy of the report within 30 days after it learns that the Secretary of State failed to receive the original report. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §15 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

### Subchapter 3: LIMITED PARTNERS HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

#### **§1341. BECOMING LIMITED PARTNER**

A person becomes a limited partner: [2005, c. 543, Pt. C, §2 (NEW).]

**1. Partnership agreement.** As provided in the partnership agreement;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Conversion or merger.** As the result of a conversion or merger under subchapter 11; or

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Consent.** With the consent of all the partners.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

#### **§1342. NO RIGHT OR POWER AS LIMITED PARTNER TO BIND LIMITED PARTNERSHIP**

A limited partner does not have the right or the power as a limited partner to act for or bind the limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1343. NO LIABILITY AS LIMITED PARTNER FOR LIMITED PARTNERSHIP OBLIGATIONS

An obligation of a limited partnership, whether arising in contract, tort or otherwise, is not the obligation of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §2 (NEW).

### §1344. RIGHT OF LIMITED PARTNER AND FORMER LIMITED PARTNER TO INFORMATION

**1. Right to inspect and copy.** On 10 days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's principal office. The limited partner need not have any particular purpose for seeking the information.

[2007, c. 323, Pt. F, §16 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

**2. Right to information about activities and financial condition.** During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable if:

A. The limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner; [2005, c. 543, Pt. C, §2 (NEW).]

B. The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and [2005, c. 543, Pt. C, §2 (NEW).]

C. The information sought is directly connected to the limited partner's purpose. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**3. Response to demand for information about activities and financial condition.** Within 10 days after receiving a demand pursuant to subsection 2, the limited partnership in a record shall inform the limited partner that made the demand:

A. What information the limited partnership will provide in response to the demand; [2005, c. 543, Pt. C, §2 (NEW).]

B. When and where the limited partnership will provide the information; and [2005, c. 543, Pt. C, §2 (NEW).]

C. If the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**4. Right of dissociated limited partner.** Subject to subsection 6, a person dissociated as a limited partner may inspect and copy required information during regular business hours in the limited partnership's principal office if:



A. The information pertains to the period during which the person was a limited partner; [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. The person seeks the information in good faith; and [ 2005, c. 543, Pt. C, §2 (NEW). ]

C. The person meets the requirements of subsection 2. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2007, c. 323, Pt. F, §17 (AMD); 2007, c. 323, Pt. G, §4 (AFF) . ]

**5. Response to demand by dissociated limited partner.** The limited partnership shall respond to a demand made pursuant to subsection 4 in the same manner as provided in subsection 3.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**6. Death of limited partner.** If a limited partner dies, section 1384 applies.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**7. Reasonable restrictions on use of information.** The limited partnership may impose reasonable restrictions on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**8. Reasonable costs of copying.** A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**9. Information provided without demand.** Whenever this chapter or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information material to the limited partner's decision that the limited partnership knows.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**10. Exercise of rights.** A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection 7 or by the partnership agreement applies both to the attorney or other agent and to the limited partner or person dissociated as a limited partner.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**11. Transferee; individual under legal disability.** The rights stated in this section do not extend to a person as transferee but may be exercised by the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §§16, 17 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1345. LIMITED DUTIES OF LIMITED PARTNERS

**1. No fiduciary duty.** A limited partner does not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Good faith and fair dealing.** A limited partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Limited partner's own interest.** A limited partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1346. PERSON ERRONEOUSLY BELIEVING SELF TO BE LIMITED PARTNER

**1. Not liable for enterprise's obligations.** Except as otherwise provided in subsection 2, a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:

A. Causes an appropriate certificate of limited partnership, amendment or statement of correction to be signed and delivered to the Secretary of State for filing; or [ 2005, c. 543, Pt. C, §2 (NEW) .]

B. Withdraws from future participation as an owner in the enterprise by signing and delivering to the Secretary of State for filing a statement of withdrawal under this section. [ 2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Liable to 3rd party.** A person that makes an investment described in subsection 1 is liable to the same extent as a general partner to any 3rd party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the Secretary of State files a statement of withdrawal, certificate of limited partnership, amendment or statement of correction to show that the person is not a general partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Right to withdraw without breach.** If a person makes a diligent effort in good faith to comply with subsection 1, paragraph A and is unable to cause the appropriate certificate of limited partnership, amendment or statement of correction to be signed and delivered to the Secretary of State for filing, the person has the right to withdraw from the enterprise pursuant to subsection 1, paragraph B even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### Subchapter 4: GENERAL PARTNERS HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

#### §1351. BECOMING GENERAL PARTNER

A person becomes a general partner: [2005, c. 543, Pt. C, §2 (NEW) .]

**1. Partnership agreement.** As provided in the partnership agreement;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Admitted general partner.** Under section 1391, subsection 3, paragraph B following the dissociation of a limited partnership's last general partner;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Conversion or merger.** As the result of a conversion or merger under subchapter 11; or

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Consent.** With the consent of all the partners.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

#### §1352. GENERAL PARTNER AGENT OF LIMITED PARTNERSHIP

**1. Agent if carrying on in the ordinary course of activities.** Each general partner is an agent of the limited partnership for the purposes of its activities. An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification or had notice under section 1303, subsection 4 that the general partner lacked authority.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Agent only if actually authorized.** An act of a general partner that is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership only if the act was actually authorized by all the other partners.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1353. LIMITED PARTNERSHIP LIABLE FOR GENERAL PARTNER'S ACTIONABLE CONDUCT

**1. General partner acting in ordinary course or with authority.** A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission or other actionable conduct of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Misapplication of money or property by general partner.** If, in the course of the limited partnership's activities or while acting with authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership is liable for the loss.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1354. GENERAL PARTNER'S LIABILITY

**1. Joint and several liability.** Except as otherwise provided in subsections 2 and 3, all general partners are liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Pre-existing obligation.** A person that becomes a general partner of an existing limited partnership is not personally liable for an obligation of a limited partnership incurred before the person became a general partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Obligation of limited liability limited partnership.** Subject to the provisions of subsection 4, an obligation of a limited partnership incurred while the limited partnership is a limited liability limited partnership, whether arising in contract, tort or otherwise, is solely the obligation of the limited partnership. A general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a general partner. This subsection applies despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a limited liability limited partnership under section 1356, subsection 2, paragraph B.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Professional limited liability limited partnership exception.** A partner of a professional limited liability limited partnership is jointly and severally liable for claims arising from the rendering of a professional service by such a professional limited liability partnership if that partner:

A. Personally and directly participated in rendering that portion of the professional service that was performed negligently or in breach of any other legal duty; or [2005, c. 543, Pt. C, §2 (NEW) .]

B. Directly supervised and controlled that portion of the professional service rendered by another person that was performed negligently or in breach of any other legal duty. [2005, c. 543, Pt. C, §2 (NEW) .]

For purposes of this subsection, a "professional limited liability limited partnership" means a limited liability limited partnership that, by virtue of the business conducted by it, would be required to incorporate under the Maine Professional Service Corporation Act if that limited partnership were a corporation.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW) .

## §1355. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS

**1. General partner as party.** To the extent not inconsistent with section 1354, a general partner may be joined in an action against the limited partnership or named in a separate action.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Judgment against limited partnership.** A judgment against a limited partnership is not by itself a judgment against a general partner. A judgment against a limited partnership may not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Judgment creditor of general partner.** A judgment creditor of a general partner may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership unless the partner is personally liable for the claim under section 1354 and:

A. A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part; [2005, c. 543, Pt. C, §2 (NEW) .]

B. The limited partnership is a debtor in bankruptcy; [2005, c. 543, Pt. C, §2 (NEW) .]

C. The general partner has agreed that the creditor need not exhaust limited partnership assets; [2005, c. 543, Pt. C, §2 (NEW) .]

D. A court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome or that the grant of permission is an appropriate exercise of the court's equitable powers; or [2005, c. 543, Pt. C, §2 (NEW) .]

E. Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership. [2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §2 (NEW).

## §1356. MANAGEMENT RIGHTS OF GENERAL PARTNER

**1. General partner or partners.** Each general partner has equal rights in the management and conduct of the limited partnership's activities. Except as expressly provided in this chapter, any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Consent required.** The consent of each partner is necessary to:

A. Amend the partnership agreement; [ 2005, c. 543, Pt. C, §2 (NEW) .]

B. Amend the certificate of limited partnership to add or, subject to section 1440, delete a statement that the limited partnership is a limited liability limited partnership; and [ 2005, c. 543, Pt. C, §2 (NEW) .]

C. Sell, lease, exchange or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities. [ 2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Payments by and liabilities of general partner.** A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Advances by general partner.** A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Payment or advance constitutes loan.** A payment or advance made by a general partner that gives rise to an obligation of the limited partnership under subsection 3 or 4 constitutes a loan to the limited partnership that accrues interest from the date of the payment or advance.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. No remuneration.** A general partner is not entitled to remuneration for services performed for the partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §2 (NEW).

## §1357. RIGHT OF GENERAL PARTNER AND FORMER GENERAL PARTNER TO INFORMATION

**1. Right to inspect and copy.** A general partner, without having any particular purpose for seeking the information, may inspect and copy during regular business hours:

A. In the limited partnership's principal office, required information; and [2007, c. 323, Pt. F, §18 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

B. At a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2007, c. 323, Pt. F, §18 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Information furnished to general partner.** Each general partner and the limited partnership shall furnish to a general partner:

A. Without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter; and [2005, c. 543, Pt. C, §2 (NEW).]

B. On demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Right of dissociated general partner.** Subject to subsection 5, on 10 days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in subsection 1 at the location specified in subsection 1 if:

A. The information or record pertains to the period during which the person was a general partner; [2005, c. 543, Pt. C, §2 (NEW).]

B. The person seeks the information or record in good faith; and [2005, c. 543, Pt. C, §2 (NEW).]

C. The person satisfies the requirements imposed on a limited partner by section 1344, subsection 2. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Response to demand.** The limited partnership shall respond to a demand made pursuant to subsection 3 in the same manner as provided in section 1344, subsection 3.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Death of general partner.** If a general partner dies, section 1384 applies.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Reasonable restrictions on use of information.** The limited partnership may impose reasonable restrictions on the use of information under this section. In any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**7. Reasonable costs of copying.** A limited partnership may charge a person dissociated as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**8. Exercise of rights.** A general partner or person dissociated as a general partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection 6 or by the partnership agreement applies both to the attorney or other agent and to the general partner or person dissociated as a general partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**9. Transferee; individual under legal disability.** The rights under this section do not extend to a person as transferee, but the rights under subsection 3 of a person dissociated as a general partner may be exercised by the legal representative of an individual who dissociated as a general partner under section 1373, subsection 7, paragraph B or C.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §18 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1358. GENERAL STANDARDS OF GENERAL PARTNER'S CONDUCT

**1. Fiduciary duties.** The only fiduciary duties that a general partner has to the limited partnership and the other partners are the duties of loyalty and care under subsections 2 and 3.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Duty of loyalty.** A general partner's duty of loyalty to the limited partnership and the other partners is limited to the following:

A. To account to the limited partnership and hold as trustee for it any property, profit or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity; [2005, c. 543, Pt. C, §2 (NEW).]

B. To refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and [2005, c. 543, Pt. C, §2 (NEW).]

C. To refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Duty of care.** A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct or a knowing violation of law.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Good faith and fair dealing.** A general partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

[ 2005, c. 543, Pt. C, §2 (NEW) .]



**5. General partner's own interest.** A general partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

SECTION HISTORY

2005, c. 543, §C2 (NEW).

Subchapter 5: CONTRIBUTIONS AND DISTRIBUTIONS  
HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

**§1361. FORM OF CONTRIBUTION**

A contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property and contracts for services to be performed. [2005, c. 543, Pt. C, §2 (NEW).]

SECTION HISTORY

2005, c. 543, §C2 (NEW).

**§1362. LIABILITY FOR CONTRIBUTION**

**1. Obligation not excused by death, disability or other inability.** A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership is not excused by the partner's death, disability or other inability to perform personally.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Obligation to contribute money equal to promised nonmonetary contribution.** If a partner does not make a promised nonmonetary contribution, the partner is obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution that has not been made.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Obligation in violation of chapter; enforcement by creditor.** The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all partners. A creditor of a limited partnership that extends credit or otherwise acts in reliance on an obligation described in subsection 1, without notice of any compromise under this subsection, may enforce the original obligation.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

SECTION HISTORY

2005, c. 543, §C2 (NEW).

**§1363. SHARING OF DISTRIBUTIONS**

A distribution by a limited partnership must be shared among the partners on the basis of the value, as stated in the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner. [2005, c. 543, Pt. C, §2 (NEW).]

SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1364. INTERIM DISTRIBUTIONS

A partner does not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution. [2005, c. 543, Pt. C, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1365. NO DISTRIBUTION ON ACCOUNT OF DISSOCIATION

A person does not have a right to receive a distribution on account of dissociation. [2005, c. 543, Pt. C, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1366. DISTRIBUTION IN KIND

A partner does not have a right to demand or receive any distribution from a limited partnership in any form other than cash. Subject to section 1402, subsection 2, a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions. [2005, c. 543, Pt. C, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1367. RIGHT TO DISTRIBUTION

When a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution is subject to offset for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made. [2005, c. 543, Pt. C, §2 (NEW).]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1368. LIMITATIONS ON DISTRIBUTION

**1. In violation of partnership agreement.** A limited partnership may not make a distribution in violation of the partnership agreement.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Unable to pay debts or satisfy superior preferential rights.** A limited partnership may not make a distribution if after the distribution:

A. The limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or [2005, c. 543, Pt. C, §2 (NEW).]

B. The limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up and termination of partners whose preferential rights are superior to those of persons receiving the distribution. [ 2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Basis for determination that distribution not prohibited.** A limited partnership may base a determination that a distribution is not prohibited under subsection 2 on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Measuring effect of distribution.** Except as otherwise provided in subsection 7, the effect of a distribution under subsection 2 is measured:

A. In the case of distribution by purchase, redemption or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited partnership; and [ 2005, c. 543, Pt. C, §2 (NEW) .]

B. In all other cases, as of the date:

(1) The distribution is authorized, if the payment occurs within 120 days after that date; or

(2) The payment is made, if payment occurs more than 120 days after the distribution is authorized.  
[ 2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Indebtedness to partner and general, unsecured creditors.** A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Indebtedness not considered liability.** A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of subsection 2 if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this section.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**7. Indebtedness issued as distribution; date payment made.** If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW) .

## §1369. LIABILITY FOR IMPROPER DISTRIBUTIONS

**1. General partner liable if consent to distribution not in compliance.** A general partner that consents to a distribution made in violation of section 1368 is personally liable to the limited partnership for the amount of the distribution that exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the general partner failed to comply with section 1358.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Partner or transferee liable for excess amount received.** A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of section 1368 is personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under section 1368.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. General partner may implead, compel contribution.** A general partner against which an action is commenced under subsection 1 may:

A. Implead in the action any other person that is liable under subsection 1 and compel contribution from the person; and [2005, c. 543, Pt. C, §2 (NEW).]

B. Implead in the action any person that received a distribution in violation of subsection 2 and compel contribution from the person in the amount the person received in violation of subsection 2. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Action within 2 years.** An action under this section is barred if it is not commenced within 2 years after the distribution.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

Subchapter 6: DISSOCIATION HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

## §1371. DISSOCIATION AS LIMITED PARTNER

**1. Prohibited before termination.** A person does not have a right to dissociate as a limited partner before the termination of the limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Dissociation upon occurrence of event.** A person is dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:

A. The limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person; [2005, c. 543, Pt. C, §2 (NEW).]

B. An event agreed to in the partnership agreement as causing the person's dissociation as a limited partner; [2005, c. 543, Pt. C, §2 (NEW).]

C. The person's expulsion as a limited partner pursuant to the partnership agreement; [2005, c. 543, Pt. C, §2 (NEW).]

D. The person's expulsion as a limited partner by the unanimous consent of the other partners if:

- (1) It is unlawful to carry on the limited partnership's activities with the person as a limited partner;
- (2) There has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, that has not been foreclosed;
- (3) The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or
- (4) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up; [ 2005, c. 543, Pt. C, §2 (NEW). ]

E. On application by the limited partnership, the person's expulsion as a limited partner by judicial determination because:

- (1) The person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;
- (2) The person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good faith and fair dealing under section 1345, subsection 2; or
- (3) The person engaged in conduct relating to the limited partnership's activities that makes it not reasonably practicable to carry on the activities with the person as limited partner; [ 2005, c. 543, Pt. C, §2 (NEW). ]

F. In the case of a person who is an individual, the person's death; [ 2005, c. 543, Pt. C, §2 (NEW). ]

G. In the case of a person that is a trust or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee; [ 2005, c. 543, Pt. C, §2 (NEW). ]

H. In the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative; [ 2005, c. 543, Pt. C, §2 (NEW). ]

I. Termination of a limited partner that is not an individual, partnership, limited liability company, corporation, trust or estate; or [ 2005, c. 543, Pt. C, §2 (NEW). ]

J. The limited partnership's participation in a conversion or merger under subchapter 11, if the limited partnership:

- (1) Is not the converted or surviving entity; or
- (2) Is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a limited partner. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW). ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1372. EFFECT OF DISSOCIATION AS LIMITED PARTNER

**1. Rights; obligations; interests.** Upon a person's dissociation as a limited partner:

A. Subject to section 1384, the person does not have further rights as a limited partner; [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. The person's obligation of good faith and fair dealing as a limited partner under section 1345, subsection 2 continues only as to matters arising and events occurring before the dissociation; and [2005, c. 543, Pt. C, §2 (NEW).]

C. Subject to section 1384 and subchapter 11, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person as a mere transferee. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Obligations to partnership and partners.** A person's dissociation as a limited partner does not of itself discharge the person from any obligation to the limited partnership or the other partners that the person incurred while a limited partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1373. DISSOCIATION AS GENERAL PARTNER

A person is dissociated from a limited partnership as a general partner upon the occurrence of any of the following events: [2005, c. 543, Pt. C, §2 (NEW).]

**1. Notice of express will to withdraw.** The limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Event in partnership agreement.** An event agreed to in the partnership agreement as causing the person's dissociation as a general partner;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Expulsion pursuant to partnership agreement.** The person's expulsion as a general partner pursuant to the partnership agreement;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Expulsion by unanimous consent.** The person's expulsion as a general partner by the unanimous consent of the other partners if:

A. It is unlawful to carry on the limited partnership's activities with the person as a general partner; [2005, c. 543, Pt. C, §2 (NEW).]

B. There has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, that has not been foreclosed; [2005, c. 543, Pt. C, §2 (NEW).]

C. The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or [2005, c. 543, Pt. C, §2 (NEW).]

D. The person is a limited liability company or partnership that has been dissolved and whose business is being wound up; [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Expulsion upon judicial determination.** On application by the limited partnership, the person's expulsion as a general partner by judicial determination because:

A. The person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities; [2005, c. 543, Pt. C, §2 (NEW).]

B. The person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under section 1358; or [2005, c. 543, Pt. C, §2 (NEW).]

C. The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner; [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Bankruptcy; execution of assignment; appointment of trustee, receiver or liquidator.** The person's:

A. Becoming a debtor in bankruptcy; [2005, c. 543, Pt. C, §2 (NEW).]

B. Execution of an assignment for the benefit of creditors; [2005, c. 543, Pt. C, §2 (NEW).]

C. Seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of the person or of all or substantially all of the person's property; or [2005, c. 543, Pt. C, §2 (NEW).]

D. Failure, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated; [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**7. Death; appointment of guardian or conservator; judicial determination.** In the case of a person who is an individual:

A. The person's death; [2005, c. 543, Pt. C, §2 (NEW).]

B. The appointment of a guardian or general conservator for the person; or [2005, c. 543, Pt. C, §2 (NEW).]

C. A judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement; [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**8. Distribution of trust's interest.** In the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**9. Distribution of estate's interest.** In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**10. Termination of general partner.** Termination of a general partner that is not an individual, partnership, limited liability company, corporation, trust or estate; or

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**11. Conversion or merger.** The limited partnership's participation in a conversion or merger under subchapter 11, if the limited partnership:

A. Is not the converted or surviving entity; or [2005, c. 543, Pt. C, §2 (NEW).]

B. Is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1374. PERSON'S POWER TO DISSOCIATE AS GENERAL PARTNER; WRONGFUL DISSOCIATION

**1. Dissociate by express will.** A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to section 1373, subsection 1.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Wrongful dissociation.** A person's dissociation as a general partner is wrongful only if:

A. It is in breach of an express provision of the partnership agreement; or [2005, c. 543, Pt. C, §2 (NEW).]

B. It occurs before the termination of the limited partnership and:

(1) The person withdraws as a general partner by express will;

(2) The person is expelled as a general partner by judicial determination under section 1373, subsection 5;

(3) The person is dissociated as a general partner by becoming a debtor in bankruptcy; or

(4) In the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]



**3. Liability when dissociation wrongful.** A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to section 1421, to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the general partner to the limited partnership or to the other partners.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1375. EFFECT OF DISSOCIATION AS GENERAL PARTNER

**1. Rights; duties; statement of dissociation; interests.** Upon a person's dissociation as a general partner:

A. The person's right to participate as a general partner in the management and conduct of the partnership's activities terminates; [2005, c. 543, Pt. C, §2 (NEW).]

B. The person's duty of loyalty as a general partner under section 1358, subsection 2, paragraph C terminates; [2005, c. 543, Pt. C, §2 (NEW).]

C. The person's duty of loyalty as a general partner under section 1358, subsection 2, paragraphs A and B and duty of care under section 1358, subsection 3 continue only with regard to matters arising and events occurring before the person's dissociation as a general partner; [2005, c. 543, Pt. C, §2 (NEW).]

D. The person may sign and deliver to the Secretary of State for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership that states that the person has dissociated; and [2005, c. 543, Pt. C, §2 (NEW).]

E. Subject to section 1384 and subchapter 11, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person as a mere transferee. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Obligations to partnership and partners.** A person's dissociation as a general partner does not of itself discharge the person from any obligation to the limited partnership or the other partners that the person incurred while a general partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1376. POWER TO BIND AND LIABILITY TO LIMITED PARTNERSHIP BEFORE DISSOLUTION OF PARTNERSHIP OF PERSON DISSOCIATED AS GENERAL PARTNER

**1. Bound by act of dissociated general partner.** After a person is dissociated as a general partner and before the limited partnership is dissolved, converted under subchapter 11 or merged out of existence under subchapter 11, the limited partnership is bound by an act of the person only if:

A. The act would have bound the limited partnership under section 1352 before the dissociation; and [2005, c. 543, Pt. C, §2 (NEW).]

B. At the time the other party enters into the transaction:

- (1) Less than 2 years has passed since the dissociation; and
- (2) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Liability of dissociated general partner.** If a limited partnership is bound under subsection 1, the person dissociated as a general partner that caused the limited partnership to be bound is liable:

- A. To the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under subsection 1; and [2005, c. 543, Pt. C, §2 (NEW).]
- B. If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1377. LIABILITY TO OTHER PERSONS OF PERSON DISSOCIATED AS GENERAL PARTNER

**1. Liability of dissociated general partner.** A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for an obligation of the limited partnership incurred before dissociation. Except as otherwise provided in subsections 2 and 3, the person is not liable for a limited partnership's obligation incurred after dissociation.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Liability when dissociation resulted in dissolution.** A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities is liable to the same extent as a general partner under section 1354 on an obligation incurred by the limited partnership under section 1394.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Liability when dissociation did not result in dissolution.** A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities is liable on a transaction entered into by the limited partnership after the dissociation only if:

- A. A general partner would be liable on the transaction; and [2005, c. 543, Pt. C, §2 (NEW) .]
- B. At the time the other party enters into the transaction:
  - (1) Less than 2 years has passed since the dissociation; and
  - (2) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Release upon agreement with creditor.** By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for an obligation of the limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Release upon creditor's agreement to material alteration without consent.** A person dissociated as a general partner is released from liability for an obligation of the limited partnership if the limited partnership's creditor, with notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### Subchapter 7: TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

#### §1381. PARTNER'S TRANSFERABLE INTEREST

The only interest of a partner that is transferable is the partner's transferable interest. A transferable interest is personal property. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

#### §1382. TRANSFER OF PARTNER'S TRANSFERABLE INTEREST

**1. Transfer.** A transfer, in whole or in part, of a partner's transferable interest:

A. Is permissible; [2005, c. 543, Pt. C, §2 (NEW).]

B. Does not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and [2005, c. 543, Pt. C, §2 (NEW).]

C. Does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection 3 or to inspect or copy the required information or the limited partnership's other records. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Transferee's right to receive.** A transferee has a right to receive, in accordance with the transfer:

A. Distributions to which the transferor would otherwise be entitled; and [2005, c. 543, Pt. C, §2 (NEW).]

B. Upon the dissolution and winding up of the limited partnership's activities, the net amount otherwise distributable to the transferor. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Account for transferee.** In a dissolution and winding up, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Transferor retains all other rights, duties and obligations.** Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Notice of transfer.** A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Transfer in violation of restriction.** A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**7. Transferee's liability for transferor's obligations.** A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under sections 1361 and 1369. However, the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1383. RIGHTS OF JUDGMENT CREDITOR OF PARTNER OR TRANSFEE

**1. Court order charging transferable interest; rights of transferee.** On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts and inquiries the judgment debtor might have made or that the circumstances of the case may require to give effect to the charging order.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Charging order a lien; foreclosure; rights of transferee.** A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Redemption before foreclosure.** At any time before foreclosure, an interest charged may be redeemed:

A. By the judgment debtor; [2005, c. 543, Pt. C, §2 (NEW).]

B. With property other than limited partnership property, by one or more of the other partners; or [2005, c. 543, Pt. C, §2 (NEW).]

C. With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Exemption laws applicable.** This chapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**5. Exclusive remedy.** This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1384. POWER OF ESTATE OF DECEASED PARTNER

If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in section 1382 and, for the purposes of settling the estate, may exercise the rights of a current limited partner under section 1344. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

#### Subchapter 8: DISSOLUTION HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

### §1391. NONJUDICIAL DISSOLUTION

Except as otherwise provided in section 1392, a limited partnership is dissolved, and its activities must be wound up, only upon the occurrence of any of the following: [ 2005, c. 543, Pt. C, §2 (NEW) . ]

**1. Event specified in partnership agreement.** The happening of an event specified in the partnership agreement;

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Consent.** The consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**3. Dissociation of general partner.** After the dissociation of a person as a general partner:

A. If the limited partnership has at least one remaining general partner, the consent to dissolve the limited partnership given within 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or [ 2005, c. 543, Pt. C, §2 (NEW) . ]

B. If the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:

(1) Consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(2) At least one person is admitted as a general partner in accordance with the consent; [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**4. Dissociation of last limited partner.** The passage of 90 days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner; or

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Declaration of dissolution.** The signing and filing of a declaration of dissolution by the Secretary of State under section 1399, subsection 3.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1392. JUDICIAL DISSOLUTION

On application by a partner, the Superior Court may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1393. WINDING UP

**1. Purpose after dissolution.** A limited partnership continues after dissolution only for the purpose of winding up its activities.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Winding up limited partnership.** In winding up its activities, the limited partnership:

A. May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of termination as provided in section 1323 and perform other necessary acts; and [2005, c. 543, Pt. C, §2 (NEW) .]

B. Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities and marshal and distribute the assets of the partnership. [2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Appointment to wind up activities.** If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection:

A. Has the powers of a general partner under section 1394; and [2005, c. 543, Pt. C, §2 (NEW) .]

B. Shall promptly amend the certificate of limited partnership to state:

(1) That the limited partnership does not have a general partner;

(2) The name of the person that has been appointed to wind up the limited partnership; and

(3) The street and mailing address of the person. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**4. Judicial supervision.** On the application of any partner, the Superior Court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:

A. The limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection 3; or [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. The applicant establishes other good cause. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### **§1394. POWER OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER TO BIND PARTNERSHIP AFTER DISSOLUTION**

**1. General partner's act after dissolution.** A limited partnership is bound by a general partner's act after dissolution that:

A. Is appropriate for winding up the limited partnership's activities; or [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. Would have bound the limited partnership under section 1352 before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Dissociated general partner's act after dissolution.** A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:

A. At the time the other party enters into the transaction:

(1) Less than 2 years has passed since the dissociation; and

(2) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. The act:

(1) Is appropriate for winding up the limited partnership's activities; or

(2) Would have bound the limited partnership under section 1352 before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1395. LIABILITY AFTER DISSOLUTION OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER TO LIMITED PARTNERSHIP, OTHER GENERAL PARTNERS AND PERSONS DISSOCIATED AS GENERAL PARTNER

**1. General partner liable for inappropriate act after dissolution.** If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under section 1394, subsection 1 by an act that is not appropriate for winding up the partnership's activities, the general partner is liable:

- A. To the limited partnership for any damage caused to the limited partnership arising from the obligation; and [2005, c. 543, Pt. C, §2 (NEW).]
- B. If another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Dissociated general partner liable for incurring obligation.** If a person dissociated as a general partner causes a limited partnership to incur an obligation under section 1394, subsection 2, the person is liable:

- A. To the limited partnership for any damage caused to the limited partnership arising from the obligation; and [2005, c. 543, Pt. C, §2 (NEW).]
- B. If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1396. KNOWN CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP

**1. Dispose of known claims.** A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection 2.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Notice of dissolution.** A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice must:

- A. Specify the information required to be included in a claim; [2005, c. 543, Pt. C, §2 (NEW) .]
- B. Provide a mailing address to which the claim is to be sent; [2005, c. 543, Pt. C, §2 (NEW) .]
- C. State the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant; [2005, c. 543, Pt. C, §2 (NEW) .]
- D. State that the claim will be barred if not received by the deadline; and [2005, c. 543, Pt. C, §2 (NEW) .]



E. Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner that is based on section 1354. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW) .]

**3. Claim barred.** A claim against a dissolved limited partnership is barred if the requirements of subsection 2 are met and:

A. The claim is not received by the specified deadline; or [2005, c. 543, Pt. C, §2 (NEW) .]

B. In the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within 90 days after the receipt of the notice of the rejection. [2005, c. 543, Pt. C, §2 (NEW) .]

[2005, c. 543, Pt. C, §2 (NEW) .]

**4. Claims or liability after dissolution.** This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

[2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1397. OTHER CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP

**1. Notice of dissolution; claims.** A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.

[2005, c. 543, Pt. C, §2 (NEW) .]

**2. Notice requirements.** The notice must:

A. Be published at least once in a newspaper of general circulation in the county in which the dissolved limited partnership's principal office is located or, if it has none in this State, in Kennebec County; [2007, c. 323, Pt. F, §19 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

B. Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; [2005, c. 543, Pt. C, §2 (NEW) .]

C. State that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within 5 years after publication of the notice; and [2005, c. 543, Pt. C, §2 (NEW) .]

D. Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner that is based on section 1354. [2005, c. 543, Pt. C, §2 (NEW) .]

[2007, c. 323, Pt. F, §19 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**3. Claimants barred.** If a dissolved limited partnership publishes a notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership within 5 years after the publication date of the notice:

- A. A claimant that did not receive notice in a record under section 1396; [2005, c. 543, Pt. C, §2 (NEW).]
- B. A claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and [2005, c. 543, Pt. C, §2 (NEW).]
- C. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Enforcement of claims.** A claim not barred under this section may be enforced:

- A. Against the dissolved limited partnership, to the extent of its undistributed assets; [2005, c. 543, Pt. C, §2 (NEW).]
- B. If the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or [2005, c. 543, Pt. C, §2 (NEW).]
- C. Against any person liable on the claim under section 1354. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §19 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

### §1398. LIABILITY OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER WHEN CLAIM AGAINST LIMITED PARTNERSHIP BARRED

If a claim against a dissolved limited partnership is barred under section 1396 or 1397, any corresponding claim under section 1354 is also barred. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1399. ADMINISTRATIVE DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIP

**1. Grounds for administrative dissolution.** Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under subsection 2 to administratively dissolve a domestic limited partnership if:

- A. The domestic limited partnership does not pay when they are due any fees or penalties imposed by this chapter or other law; [2005, c. 543, Pt. C, §2 (NEW).]
- B. The domestic limited partnership does not deliver its annual report to the Secretary of State as required by section 1330, subsection 1; [2005, c. 543, Pt. C, §2 (NEW).]

C. The domestic limited partnership does not pay the annual report late filing penalty as required by section 1330, subsection 3; [2005, c. 543, Pt. C, §2 (NEW).]

D. The domestic limited partnership is without a registered agent in this State as required by Title 5, section 105, subsection 1; [2007, c. 323, Pt. F, §20 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

E. The domestic limited partnership does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111; or [2007, c. 323, Pt. F, §21 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

F. A general partner, limited partner or agent of the domestic limited partnership signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the Secretary of State for filing. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2007, c. 323, Pt. F, §§20, 21 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Procedure for administrative dissolution of domestic limited partnership.** If the Secretary of State determines that one or more grounds exist under subsection 1 for dissolving a domestic limited partnership, the Secretary of State shall serve the limited partnership with a written notice of that determination as required by subsection 10.

[ 2007, c. 323, Pt. F, §22 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**3. Administrative dissolution.** The domestic limited partnership is administratively dissolved if within 60 days after the notice under subsection 2 was issued and is perfected under subsection 10 the Secretary of State determines that the limited partnership has failed to correct the ground or grounds for the dissolution. The Secretary of State shall send notice to the limited partnership as required by subsection 10 that recites the ground or grounds for dissolution and the effective date of dissolution.

[ 2007, c. 323, Pt. F, §23 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**4. Effect of administrative dissolution; prohibition.** A domestic limited partnership administratively dissolved under this section continues its existence but may not transact any business in this State except as necessary to wind up the affairs of the limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Liability of limited partners.** A limited partner of a domestic limited partnership is not liable as a general partner of the limited partnership solely by reason of the limited partnership's having been administratively dissolved under this section.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Validity of contracts; right to be sued; right to defend suit.** The administrative dissolution of a domestic limited partnership under this section does not impair:

A. The validity of any contract or act of the domestic limited partnership; [2005, c. 543, Pt. C, §2 (NEW).]

B. The right of any other party to the contract to maintain any action, suit or proceeding on the contract; or [2005, c. 543, Pt. C, §2 (NEW).]

C. The right of the domestic limited partnership to defend any action, suit or proceeding in any court of this State. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**7. Authority of registered agent.** The administrative dissolution of a domestic limited partnership under this section does not terminate the authority of its registered agent.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**8. Protecting domestic limited partnership name after administrative dissolution.** The name of a domestic limited partnership remains in the Secretary of State's record of limited partnership names and is protected for a period of 3 years following administrative dissolution under this section.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**9. Notice to Superintendent of Financial Institutions in case of financial institution or credit union.**

In the case of a financial institution authorized to do business in this State or a credit union authorized to do business in this State, as defined in Title 9-B, the Secretary of State shall notify the Superintendent of Financial Institutions within a reasonable time prior to administratively dissolving the financial institution or credit union under this section.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**10. Delivery of notice.** The Secretary of State shall send notice of its determination under subsection 1 by regular mail and the service upon the domestic limited partnership is perfected 5 days after the Secretary of State deposits its determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent of the limited partnership.

[ 2007, c. 323, Pt. F, §24 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §§20-24 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## **§1400. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION OR SUSPENSION OF DOMESTIC LIMITED PARTNERSHIP**

**1. Reinstatement following administrative dissolution.** A domestic limited partnership administratively dissolved under section 1399 may apply to the Secretary of State for reinstatement within 6 years after the effective date of dissolution.

A. The application for reinstatement must:

- (1) State the name of the domestic limited partnership and the effective date of its administrative dissolution;
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated; and
- (3) State that the domestic limited partnership's name satisfies the requirements of section 1308.

[2005, c. 543, Pt. C, §2 (NEW).]

B. If the Secretary of State determines that the application contains the information required under this subsection and is accompanied by the reinstatement fee set forth in section 1460, subsection 6, and that the information is correct, the Secretary of State shall cancel the administrative dissolution and prepare a notice of reinstatement that recites that determination and the effective date of reinstatement. The

Secretary of State shall use the procedures set forth in section 1399, subsection 10 to deliver the notice to the domestic limited partnership. [2007, c. 323, Pt. F, §25 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

C. When the reinstatement is effective under this subsection, it relates back to and takes effect as of the effective date of the administrative dissolution, and the domestic limited partnership resumes business as if the administrative dissolution had not occurred. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2007, c. 323, Pt. F, §25 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Reinstatement after suspension.** A domestic limited partnership that was suspended before July 1, 2004 may apply to the Secretary of State for reinstatement.

A. The reinstatement may be granted if:

(1) The Secretary of State determines that the application contains the information required under subsection 1;

(2) The application for reinstatement is accompanied by the reinstatement fee set forth in section 1460, subsection 6; and

(3) The application for reinstatement is received by the Secretary of State by June 30, 2010. [2005, c. 543, Pt. C, §2 (NEW).]

B. A domestic limited partnership that fails to meet the requirements of this subsection is administratively dissolved and may not reinstate. [2005, c. 543, Pt. C, §2 (NEW).]

C. The name of a domestic limited partnership that is suspended remains in the Secretary of State's record of limited partnership names and is protected for a period of 3 years following suspension. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §25 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1401. APPEAL FROM DENIAL OF REINSTATEMENT OF DOMESTIC LIMITED PARTNERSHIP

**1. Denial of reinstatement.** If the Secretary of State denies a domestic limited partnership's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited partnership as required by section 1399, subsection 10 with a written notice that explains the reason or reasons for denial.

[ 2007, c. 323, Pt. F, §26 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**2. Appeal.** A domestic limited partnership may appeal a denial of reinstatement under subsection 1 to the Superior Court of the county where the limited partnership's principal office is located or, if there is no principal office in this State, in Kennebec County within 30 days after the date of the notice of denial. The limited partnership appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's notice of administrative dissolution, the limited partnership's application for reinstatement and the Secretary of State's notice of denial.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Court action.** The court may summarily order the Secretary of State to reinstate an administratively dissolved domestic limited partnership or may take other action the court considers appropriate.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Final decision.** The court's final decision in an appeal under this section may be appealed as in other civil proceedings.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §26 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1401-A. REVIVAL OF DOMESTIC LIMITED PARTNERSHIP AFTER DISSOLUTION

**1. Determination of need to revive partnership.** If the Secretary of State finds that a domestic limited partnership has dissolved in any manner under this subchapter and that the domestic limited partnership should be revived for any specified purpose or purposes for a specific period of time, the Secretary of State may upon application by an interested party file a certificate of revival in a form or format prescribed by the Secretary of State for reviving the domestic limited partnership.

[ 2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF) .]

**2. Certificate of revival.** The certificate of revival must include:

A. The name of the domestic limited partnership and its original date of organization; [2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF).]

B. The name of the domestic limited partnership's registered agent and the address of its registered agent at the time of dissolution; [2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF).]

C. The name and address of the party or parties requesting the revival; [2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF).]

D. The purpose or purposes for which revival is requested; and [2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF).]

E. The time period needed to complete the purpose or purposes specified under paragraph D. [2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF).]

[ 2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF) .]

**3. Notice of revival.** The Secretary of State shall issue a notice to the domestic limited partnership to the address provided in subsection 2, paragraph C stating that the revival has been granted for the purpose or purposes and for the time period specified pursuant to the certificate of revival filed under this subsection.

[ 2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF) .]

**4. Termination of revival.** When the time period specified in subsection 2, paragraph E has expired, the Secretary of State shall issue a notice to the domestic limited partnership at the address provided in subsection 2, paragraph C that the status of the limited partnership has returned to the status prior to filing the certificate of revival under this section.

[ 2007, c. 231, §37 (NEW); 2007, c. 231, §40 (AFF) .]

#### SECTION HISTORY

2007, c. 231, §37 (NEW). 2007, c. 231, §40 (AFF).

## §1402. DISPOSITION OF ASSETS; WHEN CONTRIBUTIONS REQUIRED

**1. Assets to satisfy creditors.** In winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section, must be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Surplus paid in cash distribution.** Any surplus remaining after the limited partnership complies with subsection 1 must be paid in cash as a distribution.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Insufficient assets to satisfy all obligations.** If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection 1, with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply.

A. Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under section 1377 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred. [2005, c. 543, Pt. C, §2 (NEW) .]

B. If a person does not contribute the full amount required under paragraph A with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph A on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred. [2005, c. 543, Pt. C, §2 (NEW) .]

C. If a person does not make the additional contribution required by paragraph B, further additional contributions are determined and due in the same manner as provided in that paragraph. [2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Additional contribution recoverable.** A person that makes an additional contribution under subsection 3, paragraph B or C may recover from any person whose failure to contribute under subsection 3, paragraph A or B necessitated the additional contribution. A person may not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection may not exceed the amount the person failed to contribute.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Estate of deceased liable for obligations.** The estate of a deceased individual is liable for the individual's obligations under this section.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Assignee, court appointee may enforce.** An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subsection 3.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### Subchapter 9: FOREIGN LIMITED PARTNERSHIPS HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

## §1411. GOVERNING LAW

**1. Law under which organized governs.** The laws of the State or other jurisdiction under which a foreign limited partnership is organized govern relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Difference in laws.** A foreign limited partnership may not be denied a certificate of authority under this subchapter by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Certificate of authority.** A certificate of authority under this subchapter does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1412. APPLICATION FOR CERTIFICATE OF AUTHORITY

**1. Application.** A foreign limited partnership may apply for a certificate of authority to transact business in this State by delivering an application to the Secretary of State for filing. The application must state:

A. The name of the foreign limited partnership and, if the name does not comply with section 1308, the name under which it proposes to apply for authority to do business pursuant to section 1415, subsection 1; [2005, c. 543, Pt. C, §2 (NEW) .]

B. The name of the State or other jurisdiction under whose law the foreign limited partnership is organized and its date of formation; [2005, c. 543, Pt. C, §2 (NEW) .]



C. The street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, the street and mailing address of the required office; [ 2005, c. 543, Pt. C, §2 (NEW). ]

D. The information required by Title 5, section 105, subsection 1; [ 2007, c. 323, Pt. F, §27 (AMD); 2007, c. 323, Pt. G, §4 (AFF). ]

E. The name and street and mailing address of each of the foreign limited partnership's general partners; and [ 2005, c. 543, Pt. C, §2 (NEW). ]

F. Whether the foreign limited partnership is a foreign limited liability limited partnership. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2007, c. 323, Pt. F, §27 (AMD); 2007, c. 323, Pt. G, §4 (AFF) . ]

**2. Certificate of existence or similar record.** A foreign limited partnership shall deliver with the completed application under subsection 1 a certificate of existence or a record of similar import signed by the Secretary of State or other official having custody of the limited partnership's publicly filed records in the State or other jurisdiction under whose law the foreign limited partnership is organized. The certificate of existence must have been made not more than 90 days prior to delivery of the application for filing.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §27 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1412-A. AMENDMENTS TO APPLICATION

**1. Amendments to application.** If any statement in the application for authority to do business of a foreign limited partnership requires change as a result of subsequent events, the foreign limited partnership shall promptly file with the Secretary of State a certificate, executed by a general partner, amending the statement. The statement must include:

A. The name of the foreign limited partnership; [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. The jurisdiction of organization and the date of its organization; [ 2005, c. 543, Pt. C, §2 (NEW). ]

C. The date the foreign limited partnership was granted authority to transact business in this State; and [ 2005, c. 543, Pt. C, §2 (NEW). ]

D. The information that is causing the amendment to be filed. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Changes requiring prompt delivery of amendment.** A foreign limited partnership shall promptly deliver to the Secretary of State for filing an amended application for authority to reflect:

A. The admission of a new general partner; [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. The dissociation of a person as a general partner; [ 2005, c. 543, Pt. C, §2 (NEW). ]

C. The change in the address of one or more of the general partners from that appearing on the record of the office of the Secretary of State. The application must be amended to set forth the new business, residence or mailing address of each partner; or [ 2005, c. 543, Pt. C, §2 (NEW). ]

D. The address of the registered or principal office of the limited partnership. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**3. Responsibility of general partner.** A general partner that knows that any information in a filed application of authority was false when the certificate was filed or has become false due to changed circumstances shall promptly:

A. Cause the application to be amended; or [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. If appropriate, deliver to the Secretary of State for filing a statement of change pursuant to section 1315 or a statement of correction pursuant to section 1327. [ 2005, c. 543, Pt. C, §2 (NEW). ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**4. Amendment at any time.** An application for authority may be amended at any time for any other proper purpose as determined by the foreign limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**5. Effective when filed.** Subject to section 1326, subsection 3, an amended application for authority is effective when filed by the Secretary of State.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1413. ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS

**1. Activities not constituting transacting business.** Activities of a foreign limited partnership that do not constitute transacting business in this State within the meaning of this subchapter include:

A. Maintaining, defending and settling an action or proceeding; [ 2005, c. 543, Pt. C, §2 (NEW). ]

B. Holding meetings of its partners or carrying on any other activity concerning its internal affairs; [ 2005, c. 543, Pt. C, §2 (NEW). ]

C. Maintaining accounts in financial institutions; [ 2005, c. 543, Pt. C, §2 (NEW). ]

D. Maintaining offices or agencies for the transfer, exchange and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities; [ 2005, c. 543, Pt. C, §2 (NEW). ]

E. Selling through independent contractors; [ 2005, c. 543, Pt. C, §2 (NEW). ]

F. Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this State before they become contracts; [ 2005, c. 543, Pt. C, §2 (NEW). ]

G. Creating or acquiring indebtedness, mortgages or security interests in real or personal property; [ 2005, c. 543, Pt. C, §2 (NEW). ]

H. Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired; [ 2005, c. 543, Pt. C, §2 (NEW). ]

I. Conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of a like manner; and [2005, c. 543, Pt. C, §2 (NEW).]

J. Transacting business in interstate commerce. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Ownership of property.** For purposes of this subchapter, the ownership in this State of income-producing real property or tangible personal property, other than property excluded under subsection 1, constitutes transacting business in this State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Service of process, taxation or regulation under other law.** This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation or regulation under any other law of this State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1414. FILING OF CERTIFICATE OF AUTHORITY

Unless the Secretary of State determines that an application for a certificate of authority does not comply with the filing requirements of this chapter, the Secretary of State, upon payment of all filing fees, shall file the application, prepare, sign and file a certificate of authority to transact business in this State and send a copy of the filed certificate, together with a receipt for the fees, to the foreign limited partnership or its representative. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1415. FICTITIOUS NAME OF FOREIGN LIMITED PARTNERSHIP

**1. Requirements for use of fictitious name.** As used in this section, "fictitious name" means a name adopted by a foreign limited partnership authorized to transact business in this State because its real name is unavailable pursuant to section 1308, subsection 1.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Authorized to transact business.** Upon complying with this section, a foreign limited partnership authorized to transact business in this State may transact its business in this State under its fictitious name.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. File statement indicating use of fictitious name.** Prior to transacting business in this State under a fictitious name, a foreign limited partnership shall execute and deliver to the Secretary of State for filing a statement setting forth:

A. The foreign limited partnership name; [2005, c. 543, Pt. C, §2 (NEW).]

B. The foreign limited partnership's jurisdiction of organization and date of organization; [2005, c. 543, Pt. C, §2 (NEW).]

C. That the foreign limited partnership intends to transact business under a fictitious name; and [2005, c. 543, Pt. C, §2 (NEW).]

D. The fictitious name that the foreign limited partnership proposes to use. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**4. Compliance required.** A fictitious name must comply with the requirements of section 1308, subsection 1.

[2005, c. 543, Pt. C, §2 (NEW).]

**5. Enjoin use of fictitious name.** If a foreign limited partnership uses a fictitious name without complying with the requirements of this section, the continued use of the fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the fictitious name.

[2005, c. 543, Pt. C, §2 (NEW).]

**6. Enjoin use despite compliance.** Notwithstanding its compliance with the requirements of this section, the use of a fictitious name may be enjoined upon suit of the Attorney General or of any person adversely affected by such use if:

A. The fictitious name did not, at the time the statement required by subsection 3 was filed, comply with the requirements of section 1308, subsection 1; or [2005, c. 543, Pt. C, §2 (NEW).]

B. The fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law. [2005, c. 543, Pt. C, §2 (NEW).]

The mere filing of a statement pursuant to subsection 3 does not constitute actual use of the fictitious name set out in that statement for purposes of determining priority of rights.

[2005, c. 543, Pt. C, §2 (NEW).]

**7. Terminate use of fictitious name.** A foreign limited partnership may terminate a fictitious name by executing and delivering a statement setting forth:

A. The name of the foreign limited partnership; [2005, c. 543, Pt. C, §2 (NEW).]

B. The foreign limited partnership's jurisdiction of organization and date of organization; [2005, c. 543, Pt. C, §2 (NEW).]

C. The date on which the foreign limited partnership was authorized to transact business in this State; [2005, c. 543, Pt. C, §2 (NEW).]

D. That the foreign limited partnership no longer intends to transact business under the fictitious name; and [2005, c. 543, Pt. C, §2 (NEW).]

E. The fictitious name the foreign limited partnership intends to terminate. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1416. REVOCATION OF AUTHORITY

**1. Grounds for revocation of authority.** Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under subsection 2 to revoke the authority of a foreign limited partnership authorized to transact business in this State if:

- A. The foreign limited partnership does not pay when they are due any fees or penalties imposed by this chapter or other law; [2005, c. 543, Pt. C, §2 (NEW).]
- B. The foreign limited partnership does not deliver its annual report to the Secretary of State as required by section 1330, subsection 1; [2005, c. 543, Pt. C, §2 (NEW).]
- C. The foreign limited partnership does not pay the annual report late filing penalty as required by section 1330, subsection 3; [2005, c. 543, Pt. C, §2 (NEW).]
- D. The foreign limited partnership is without a registered agent in this State as required by Title 5, section 105, subsection 1; [2007, c. 323, Pt. F, §28 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]
- E. The foreign limited partnership does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111; or [2007, c. 323, Pt. F, §29 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]
- F. A general partner, limited partner or agent of the foreign limited partnership signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the Secretary of State for filing. [2005, c. 543, Pt. C, §2 (NEW).]

[2007, c. 323, Pt. F, §§28, 29 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

**2. Procedure for revocation of foreign limited partnership.** If the Secretary of State determines that one or more grounds exist under subsection 1 for the revocation of authority of the foreign limited partnership, the Secretary of State shall serve the foreign limited partnership with a written notice of that determination as required by subsection 7.

[2007, c. 323, Pt. F, §30 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

**3. Revocation of authority.** The foreign limited partnership's authority is revoked if within 60 days after the notice under subsection 2 was issued and is perfected under subsection 7 the Secretary of State determines that the foreign limited partnership has failed to correct the ground or grounds for the revocation. The Secretary of State shall send notice to the foreign limited partnership as required by subsection 7 that recites the ground or grounds for revocation and the effective date of revocation.

[2007, c. 323, Pt. F, §31 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

**4. Authority to transact business ceases.** The authority of a foreign limited partnership to transact business in this State ceases on the effective date of revocation of its authority.

[2005, c. 543, Pt. C, §2 (NEW).]

**5. Registered agent; not terminated.** Revocation of a foreign limited partnership's authority to transact business in this State does not terminate the authority of the registered agent of the foreign limited partnership.

[2005, c. 543, Pt. C, §2 (NEW).]

**6. Authorization after revocation.** A foreign limited partnership whose authority to transact business in this State has been revoked under this section and that wishes to transact business again in this State must be authorized as provided in this chapter.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**7. Delivery of notice.** The Secretary of State shall send notice of its determination under subsection 1 by regular mail and the service upon the foreign limited partnership is perfected 5 days after the Secretary of State deposits its determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent in this State and the registered or principal office, wherever located, of the foreign limited partnership.

[ 2007, c. 323, Pt. F, §32 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §§28-32 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1417. CANCELLATION OF CERTIFICATE OF AUTHORITY; EFFECT OF FAILURE TO HAVE CERTIFICATE

**1. Notice of cancellation.** In order to cancel its certificate of authority to transact business in this State, a foreign limited partnership must deliver to the Secretary of State for filing a notice of cancellation. The certificate is canceled when the notice becomes effective under section 1326.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Certificate of authority to maintain action or proceeding.** A foreign limited partnership transacting business in this State may not maintain an action or proceeding in this State unless it has a certificate of authority to transact business in this State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Validity of contract or act; defending action or proceeding.** The failure of a foreign limited partnership to have a certificate of authority to transact business in this State does not impair the validity of a contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending an action or proceeding in this State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Liability based solely on transaction without certificate of authority.** A partner of a foreign limited partnership is not liable for the obligations of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in this State without a certificate of authority.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Secretary of State appointed as agent.** If a foreign limited partnership transacts business in this State without a certificate of authority or cancels its certificate of authority, it appoints the Secretary of State as its agent for service of process for rights of action arising out of the transaction of business in this State.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1418. ACTION BY ATTORNEY GENERAL

The Attorney General may maintain an action to restrain a foreign limited partnership from transacting business in this State in violation of this subchapter. [ 2005, c. 543, Pt. C, §2 (NEW). ]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## Subchapter 10: ACTIONS BY PARTNERS HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

## §1421. DIRECT ACTION BY PARTNER

**1. Action against limited partnership or partner.** Subject to subsection 2, a partner may maintain a direct action against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities, to enforce the rights and otherwise protect the interests of the partner, including rights and interests under the partnership agreement or this chapter or arising independently of the partnership relationship.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Plead and prove actual or threatened injury.** A partner commencing a direct action under this section is required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**3. Accrual of right of action; time limitation.** The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1422. DERIVATIVE ACTION

A partner may maintain a derivative action to enforce a right of a limited partnership if: [ 2005, c. 543, Pt. C, §2 (NEW). ]

**1. Demand for limited partnership to enforce.** The partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Demand futile.** A demand would be futile.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1423. PROPER PLAINTIFF

A derivative action may be maintained only by a person that is a partner at the time the action is commenced and: [2005, c. 543, Pt. C, §2 (NEW).]

**1. Partner when conduct occurred.** That was a partner when the conduct giving rise to the action occurred; or

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Partner status.** Whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1424. PLEADING

In a derivative action, the complaint must state with particularity: [2005, c. 543, Pt. C, §2 (NEW).]

**1. Date and content of demand; response.** The date and content of the plaintiff's demand and the general partners' response to the demand; or

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Demand excused.** Why the demand should be excused as futile.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1425. PROCEEDS AND EXPENSES

**1. Proceeds.** Except as otherwise provided in subsection 2:

A. Any proceeds or other benefits of a derivative action, whether by judgment, compromise or settlement, belong to the limited partnership and not to the derivative plaintiff; and [2005, c. 543, Pt. C, §2 (NEW).]

B. If the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Expenses.** If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from the recovery of the limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §C2 (NEW).



## Subchapter 11: CONVERSION AND MERGER

### HEADING: PL 2005, C. 543, PT. C, §2 (NEW)

#### §1431. DEFINITIONS

As used in this subchapter, the following terms have the following meanings. [ 2005, c. 543, Pt. C, §2 (NEW). ]

**1. Constituent limited partnership.** "Constituent limited partnership" means a constituent organization that is a limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Constituent organization.** "Constituent organization" means an organization that is party to a merger.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**3. Converted organization.** "Converted organization" means the organization into which a converting organization converts pursuant to sections 1432 to 1435.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**4. Converting limited partnership.** "Converting limited partnership" means a converting organization that is a limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**5. Converting organization.** "Converting organization" means an organization that converts into another organization pursuant to section 1432.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**6. General partner.** "General partner" means a general partner of a limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**7. Governing statute.** "Governing statute" of an organization means the statute that governs the organization's internal affairs.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**8. Organization.** "Organization" means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other person having a governing statute. "Organization" includes domestic and foreign organizations whether or not organized for profit.

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**9. Organizational documents.** "Organizational documents" means:

A. For a domestic or foreign general partnership, its partnership agreement; [ 2005, c. 543, Pt. C, §2 (NEW) . ]

B. For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement; [ 2005, c. 543, Pt. C, §2 (NEW) . ]

C. For a limited liability company or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute; [2011, c. 113, Pt. B, §2 (AMD).]

D. For a business trust, its agreement of trust and declaration of trust; [2005, c. 543, Pt. C, §2 (NEW).]

E. For a domestic or foreign corporation for profit, its articles of incorporation, bylaws and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute; and [2005, c. 543, Pt. C, §2 (NEW).]

F. For any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it or are members of it. [2005, c. 543, Pt. C, §2 (NEW).]

[2011, c. 113, Pt. B, §2 (AMD).]

**10. Personal liability.** "Personal liability" means personal liability for a debt, liability or other obligation of an organization that is imposed on a person that co-owns, has an interest in or is a member of the organization:

A. By the organization's governing statute solely by reason of the person co-owning, having an interest in or being a member of the organization; or [2005, c. 543, Pt. C, §2 (NEW).]

B. By the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, liabilities and other obligations of the organization solely by reason of the person or persons co-owning, having an interest in or being a member of the organization. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**11. Surviving organization.** "Surviving organization" means an organization into which one or more other organizations are merged. A surviving organization may preexist the merger or be created by the merger.

[2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2011, c. 113, Pt. B, §2 (AMD).

## §1432. CONVERSION

**1. Conversion to or from limited partnership.** An organization other than a limited partnership may convert to a limited partnership and a limited partnership may convert to another organization pursuant to this section and sections 1433 to 1435 and a plan of conversion if:

A. The other organization's governing statute authorizes the conversion; [2005, c. 543, Pt. C, §2 (NEW).]

B. The conversion is not prohibited by the law of the jurisdiction that enacted the governing statute; and [2005, c. 543, Pt. C, §2 (NEW).]

C. The other organization complies with its governing statute in effecting the conversion. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**2. Plan of conversion.** A plan of conversion must be in a record and must include:

A. The name and form of the organization before conversion; [2005, c. 543, Pt. C, §2 (NEW).]

B. The name and form of the organization after conversion; [2005, c. 543, Pt. C, §2 (NEW).]

C. The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization and other consideration; and [2005, c. 543, Pt. C, §2 (NEW).]

D. The organizational documents of the converted organization. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### **§1433. ACTION ON PLAN OF CONVERSION BY CONVERTING LIMITED PARTNERSHIP**

**1. Consent.** Subject to section 1440, a plan of conversion must be consented to by all the partners of a converting limited partnership.

[2005, c. 543, Pt. C, §2 (NEW).]

**2. Amend plan or abandon planned conversion.** Subject to section 1440 and any contractual rights, after a conversion is approved, and at any time before a filing is made under section 1434, a converting limited partnership may amend the plan or abandon the planned conversion:

A. As provided in the plan; and [2005, c. 543, Pt. C, §2 (NEW).]

B. Except as prohibited by the plan, by the same consent as was required to approve the plan. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### **§1434. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE DATE**

**1. Deliver to Secretary of State articles of conversion; certificate of limited partnership.** After a plan of conversion is approved:

A. A converting limited partnership shall deliver to the Secretary of State for filing articles of conversion, which must include:

- (1) A statement that the limited partnership has been converted into another organization;
- (2) The name and form of the organization and the jurisdiction of its governing statute;
- (3) The date the conversion is effective under the governing statute of the converted organization;
- (4) A statement that the conversion was approved as required by this chapter;
- (5) A statement that the conversion was approved as required by the governing statute of the converted organization; and

(6) If the converted organization is a foreign organization not authorized to transact business in this State, the street and mailing address of an office that may be used for service of process under section 1435, subsection 3; and [2007, c. 323, Pt. F, §33 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

B. If the converting organization is not a converting limited partnership, the converting organization shall deliver to the Secretary of State for filing a certificate of limited partnership, which must include, in addition to the information required by section 1321:

- (1) A statement that the limited partnership was converted from another organization;
- (2) The name and form of the organization and the jurisdiction of its governing statute; and
- (3) A statement that the conversion was approved in a manner that complied with the organization's governing statute. [2005, c. 543, Pt. C, §2 (NEW).]

[2007, c. 323, Pt. F, §33 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

**2. Conversion effective.** A conversion becomes effective:

A. If the converted organization is a limited partnership, when the certificate of limited partnership takes effect; and [2005, c. 543, Pt. C, §2 (NEW).]

B. If the converted organization is not a limited partnership, as provided by the governing statute of the converted organization. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §33 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1435. EFFECT OF CONVERSION

**1. Same entity.** An organization that has been converted pursuant to this subchapter is for all purposes the same entity that existed before the conversion.

[2005, c. 543, Pt. C, §2 (NEW).]

**2. Effect of conversion.** When a conversion takes effect:

A. All property owned by the converting organization remains vested in the converted organization; [2005, c. 543, Pt. C, §2 (NEW).]

B. All debts, liabilities and other obligations of the converting organization continue as obligations of the converted organization; [2005, c. 543, Pt. C, §2 (NEW).]

C. An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred; [2005, c. 543, Pt. C, §2 (NEW).]

D. Except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of the converting organization remain vested in the converted organization; [2005, c. 543, Pt. C, §2 (NEW).]

E. Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and [2005, c. 543, Pt. C, §2 (NEW).]

F. Except as otherwise agreed, the conversion does not dissolve a converting limited partnership for the purposes of subchapter 8. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**3. Foreign organization; Secretary of State as agent.** A converted organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any obligation owed by the converting organization, if before the conversion the converting organization was subject to suit in this State on the obligation. A converted organization that is a foreign organization and not authorized to transact business in this State may be served with process at the address required in the articles of conversion under section 1434, subsection 1, paragraph A, subparagraph (6).

[ 2007, c. 323, Pt. F, §34 (AMD); 2007, c. 323, Pt. G, §4 (AFF) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §34 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1436. MERGER

**1. Merger requirements.** A limited partnership may merge with one or more other constituent organizations pursuant to this section and sections 1437 through 1439 and a plan of merger if:

- A. The governing statute of each of the other organizations authorizes the merger; [ 2005, c. 543, Pt. C, §2 (NEW) . ]
- B. The merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes; and [ 2005, c. 543, Pt. C, §2 (NEW) . ]
- C. Each of the other organizations complies with its governing statute in effecting the merger. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Plan of merger.** A plan of merger must be in a record and must include:

- A. The name and form of each constituent organization; [ 2005, c. 543, Pt. C, §2 (NEW) . ]
- B. The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect; [ 2005, c. 543, Pt. C, §2 (NEW) . ]
- C. The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization and other consideration; [ 2005, c. 543, Pt. C, §2 (NEW) . ]
- D. If the surviving organization is to be created by the merger, the surviving organization's organizational documents; and [ 2005, c. 543, Pt. C, §2 (NEW) . ]
- E. If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## §1437. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED PARTNERSHIP

**1. Consent.** Subject to section 1440, a plan of merger must be consented to by all the partners of a constituent limited partnership.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Amend plan or abandon planned merger.** Subject to section 1440 and any contractual rights, after a merger is approved, and at any time before a filing is made under section 1438, a constituent limited partnership may amend the plan or abandon the planned merger:

A. As provided in the plan; and [2005, c. 543, Pt. C, §2 (NEW) .]

B. Except as prohibited by the plan, with the same consent as was required to approve the plan.  
[2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

### SECTION HISTORY

2005, c. 543, §C2 (NEW) .

## §1438. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE

**1. Articles of merger; signed.** After each constituent organization has approved a merger, articles of merger must be signed on behalf of:

A. Each preexisting constituent limited partnership, by each general partner listed in the certificate of limited partnership; and [2005, c. 543, Pt. C, §2 (NEW) .]

B. Each other preexisting constituent organization, by an authorized representative. [2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Articles of merger; contents.** The articles of merger must include:

A. The name and form of each constituent organization and the jurisdiction of its governing statute;  
[2005, c. 543, Pt. C, §2 (NEW) .]

B. The name and form of the surviving organization, the jurisdiction of its governing statute and, if the surviving organization is created by the merger, a statement to that effect; [2005, c. 543, Pt. C, §2 (NEW) .]

C. The date the merger is effective under the governing statute of the surviving organization; [2005, c. 543, Pt. C, §2 (NEW) .]

D. If the surviving organization is to be created by the merger:

(1) If the surviving organization will be a limited partnership, the limited partnership's certificate of limited partnership; or

(2) If the surviving organization will be an organization other than a limited partnership, the organizational document that creates the organization; [2005, c. 543, Pt. C, §2 (NEW) .]

E. If the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization; [2005, c. 543, Pt. C, §2 (NEW) .]

F. A statement as to each constituent organization that the merger was approved as required by the organization's governing statute; [2005, c. 543, Pt. C, §2 (NEW).]

G. If the surviving organization is a foreign organization not authorized to transact business in this State, the street and mailing address of an office that may be used for service of process under section 1439, subsection 2; and [2007, c. 323, Pt. F, §35 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

H. Any additional information required by the governing statute of any constituent organization. [2005, c. 543, Pt. C, §2 (NEW).]

[2007, c. 323, Pt. F, §35 (AMD); 2007, c. 323, Pt. G, §4 (AFF).]

**3. Deliver to Secretary of State.** Each constituent limited partnership shall deliver the articles of merger for filing in the office of the Secretary of State.

[2005, c. 543, Pt. C, §2 (NEW).]

**4. Merger effective.** A merger becomes effective under this subchapter:

A. If the surviving organization is a limited partnership, upon the later of:

(1) Compliance with subsection 3; and

(2) Subject to section 1326, subsection 3, as specified in the articles of merger; or [2005, c. 543, Pt. C, §2 (NEW).]

B. If the surviving organization is not a limited partnership, as provided by the governing statute of the surviving organization. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §35 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1439. EFFECT OF MERGER

**1. Effect of merger.** When a merger becomes effective:

A. The surviving organization continues or comes into existence; [2005, c. 543, Pt. C, §2 (NEW).]

B. Each constituent organization that merges into the surviving organization ceases to exist as a separate entity; [2005, c. 543, Pt. C, §2 (NEW).]

C. All property owned by each constituent organization that ceases to exist vests in the surviving organization; [2005, c. 543, Pt. C, §2 (NEW).]

D. All debts, liabilities and other obligations of each constituent organization that ceases to exist continue as obligations of the surviving organization; [2005, c. 543, Pt. C, §2 (NEW).]

E. An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred; [2005, c. 543, Pt. C, §2 (NEW).]

F. Except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of each constituent organization that ceases to exist vest in the surviving organization; [2005, c. 543, Pt. C, §2 (NEW).]

G. Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; [2005, c. 543, Pt. C, §2 (NEW).]

H. Except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of subchapter 8; [ 2005, c. 543, Pt. C, §2 (NEW) . ]

I. If the surviving organization is created by the merger:

(1) If the surviving organization is a limited partnership, the certificate of limited partnership becomes effective; or

(2) If the surviving organization is an organization other than a limited partnership, the organizational document that creates the organization becomes effective; and [ 2005, c. 543, Pt. C, §2 (NEW) . ]

J. If the surviving organization preexists the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Foreign organization.** A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this State on the obligation. A surviving organization that is a foreign organization and not authorized to transact business in this State may be served with process at the address required in the articles of merger under section 1438, subsection 2, paragraph G.

[ 2007, c. 323, Pt. F, §36 (AMD); 2007, c. 323, Pt. G, §4 (AFF) . ]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 323, Pt. F, §36 (AMD). 2007, c. 323, Pt. G, §4 (AFF).

## §1440. RESTRICTIONS ON APPROVAL OF CONVERSIONS AND MERGERS AND ON RELINQUISHING LIMITED LIABILITY LIMITED PARTNERSHIP STATUS

**1. Consent for personal liability; exceptions.** If a partner of a converting or constituent limited partnership will have personal liability with respect to a converted or surviving organization, approval and amendment of a plan of conversion or merger are ineffective without the consent of the partner unless:

A. The limited partnership's partnership agreement provides for the approval of the conversion or merger with the consent of fewer than all the partners; and [ 2005, c. 543, Pt. C, §2 (NEW) . ]

B. The partner has consented to the provision of the partnership agreement. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]

**2. Consent required for amendment to certificate; exception.** An amendment to a certificate of limited partnership that deletes a statement that the limited partnership is a limited liability limited partnership is ineffective without the consent of each general partner unless:

A. The limited partnership's partnership agreement provides for the amendment with the consent of fewer than all the general partners; and [ 2005, c. 543, Pt. C, §2 (NEW) . ]

B. Each general partner that does not consent to the amendment has consented to the provision of the partnership agreement. [ 2005, c. 543, Pt. C, §2 (NEW) . ]

[ 2005, c. 543, Pt. C, §2 (NEW) . ]



**3. Insufficient consent.** A partner does not give the consent required by subsection 1 or 2 merely by consenting to a provision of the partnership agreement that permits the partnership agreement to be amended with the consent of fewer than all the partners.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW) .

## §1441. LIABILITY OF GENERAL PARTNER AFTER CONVERSION OR MERGER

**1. Liability not discharged.** A conversion or merger under this subchapter does not discharge any liability under sections 1354 and 1377 of a person that was a general partner in or dissociated as a general partner from a converting or constituent limited partnership, but:

A. The provisions of this chapter pertaining to the collection or discharge of the liability continue to apply to the liability; [2005, c. 543, Pt. C, §2 (NEW) .]

B. For the purposes of applying those provisions, the converted or surviving organization is deemed to be the converting or constituent limited partnership; and [2005, c. 543, Pt. C, §2 (NEW) .]

C. If a person is required to pay any amount under this subsection:

(1) The person has a right of contribution from each other person that was liable as a general partner under section 1354 when the obligation was incurred and has not been released from the obligation under section 1377; and

(2) The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred. [2005, c. 543, Pt. C, §2 (NEW) .]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Additional liability.** In addition to any other liability provided by law:

A. A person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership that was not a limited liability limited partnership is personally liable for each obligation of the converted or surviving organization arising from a transaction with a 3rd party after the conversion or merger becomes effective if, at the time the 3rd party enters into the transaction, the 3rd party:

(1) Does not have notice of the conversion or merger; and

(2) Reasonably believes that:

(i) The converted or surviving business is the converting or constituent limited partnership;

(ii) The converting or constituent limited partnership is not a limited liability limited partnership; and

(iii) The person is a general partner in the converting or constituent limited partnership; and [2005, c. 543, Pt. C, §2 (NEW) .]

B. A person that was dissociated as a general partner from a converting or constituent limited partnership before the conversion or merger became effective is personally liable for each obligation of the converted or surviving organization arising from a transaction with a 3rd party after the conversion or merger becomes effective if:

(1) Immediately before the conversion or merger became effective the converting or surviving limited partnership was not a limited liability limited partnership; and

(2) At the time the 3rd party enters into the transaction less than 2 years have passed since the person dissociated as a general partner and the 3rd party:

(i) Does not have notice of the dissociation;

(ii) Does not have notice of the conversion or merger; and

(iii) Reasonably believes that the converted or surviving organization is the converting or constituent limited partnership, the converting or constituent limited partnership is not a limited liability limited partnership and the person is a general partner in the converting or constituent limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### **§1442. POWER OF GENERAL PARTNERS AND PERSONS DISSOCIATED AS GENERAL PARTNERS TO BIND ORGANIZATION AFTER CONVERSION OR MERGER**

**1. Act of general partner before conversion or merger.** An act of a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective if:

A. Before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under section 1352; and [2005, c. 543, Pt. C, §2 (NEW).]

B. At the time the 3rd party enters into the transaction, the 3rd party:

(1) Does not have notice of the conversion or merger; and

(2) Reasonably believes that the converted or surviving business is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Act of dissociated general partner before conversion or merger.** An act of a person that before a conversion or merger became effective was dissociated as a general partner from a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective if:

A. Before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under section 1352 if the person had been a general partner; and [2005, c. 543, Pt. C, §2 (NEW).]

B. At the time the 3rd party enters into the transaction, less than 2 years have passed since the person dissociated as a general partner and the 3rd party:

(1) Does not have notice of the dissociation;

(2) Does not have notice of the conversion or merger; and

(3) Reasonably believes that the converted or surviving organization is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Liable for damage.** If a person having knowledge of the conversion or merger causes a converted or surviving organization to incur an obligation under subsection 1 or 2, the person is liable:

A. To the converted or surviving organization for any damage caused to the organization arising from the obligation; and [2005, c. 543, Pt. C, §2 (NEW).]

B. If another person is liable for the obligation, to that other person for any damage caused to that other person arising from the liability. [2005, c. 543, Pt. C, §2 (NEW).]

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### **§1443. SUBCHAPTER NOT EXCLUSIVE**

This subchapter does not preclude an entity from being converted or merged under other law. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## **Subchapter 12: MISCELLANEOUS PROVISIONS**

### **HEADING: PL 2005, C. 543, PT. C, §2 (NEW)**

### **§1451. UNIFORMITY OF APPLICATION AND CONSTRUCTION**

In applying and construing this Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### **§1452. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT**

This chapter modifies, limits or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but this chapter does not modify, limit or supersede Section 101(c) of that Act or authorize electronic delivery of any of the notices described in Section 103(b) of that Act. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### **§1453. APPLICATION TO EXISTING RELATIONSHIPS**

**1. Before July 1, 2008.** Before July 1, 2008, this chapter governs only:

A. A limited partnership formed on or after July 1, 2007; and [2005, c. 543, Pt. C, §2 (NEW).]

B. Except as otherwise provided in subsections 3 and 4, a limited partnership formed before July 1, 2007 that elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**2. On or after July 1, 2008.** Except as otherwise provided in subsection 3, on and after July 1, 2008, this chapter governs all limited partnerships.

[2005, c. 543, Pt. C, §2 (NEW).]

**3. Existing limited partnerships.** With respect to a limited partnership formed before July 1, 2007, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement.

A. Section 1304, subsection 3 does not apply and the limited partnership has whatever duration it had under the law applicable immediately before July 1, 2007. [2005, c. 543, Pt. C, §2 (NEW).]

B. The limited partnership is not required to amend its certificate of limited partnership to comply with section 1321, subsection 1, paragraph D. [2005, c. 543, Pt. C, §2 (NEW).]

C. Sections 1371 and 1372 do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before July 1, 2007. [2005, c. 543, Pt. C, §2 (NEW).]

D. Section 1373, subsection 4 does not apply. [2005, c. 543, Pt. C, §2 (NEW).]

E. Section 1373, subsection 5 does not apply and a court has the same power to expel a general partner as the court had immediately before July 1, 2007. [2005, c. 543, Pt. C, §2 (NEW).]

F. Section 1391, subsection 3 does not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before July 1, 2007. [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**4. Limited partnership that elects to be subject.** With respect to a limited partnership that elects pursuant to subsection 1, paragraph B to be subject to this chapter, after the election takes effect the provisions of this chapter relating to the liability of the limited partnership's general partners to 3rd parties apply:

A. Before July 1, 2008, to:

(1) A 3rd party that had not done business with the limited partnership in the year before the election took effect; and

(2) A 3rd party that had done business with the limited partnership in the year before the election took effect only if the 3rd party knows or has received a notification of the election; and [2005, c. 543, Pt. C, §2 (NEW).]

B. On and after July 1, 2008, to all 3rd parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under paragraph A, subparagraph (2). [2005, c. 543, Pt. C, §2 (NEW).]

[2005, c. 543, Pt. C, §2 (NEW).]

**5. Effect of nonelection by limited partnership formed before July 1, 2007.** A limited partnership formed before July 1, 2007 that does not elect pursuant to subsection 1, paragraph B to be subject to this chapter continues to be governed by the provisions of former chapter 11 until July 1, 2008.

[ 2007, c. 502, §1 (NEW); 2007, c. 502, §2 (AFF) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 502, §1 (AMD). 2007, c. 502, §2 (AFF).

### §1454. SAVINGS CLAUSE

This chapter does not affect an action commenced, proceeding brought or right accrued before this chapter takes effect. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1455. DUTY OF SECRETARY OF STATE

The Secretary of State's duty to file documents under this chapter is ministerial. The filing or refusal to file a document does not: [2005, c. 543, Pt. C, §2 (NEW).]

**1. Validity of documents.** Affect the validity or invalidity of the document in whole or in part;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Correctness of information.** Relate to the correctness or incorrectness of information contained in the document; or

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Presumption of validity or correctness.** Create a presumption that the document is valid or invalid or that the information in the document is correct or incorrect.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1456. RULES

The Secretary of State may adopt rules not inconsistent with this chapter pertaining to the filing of documents with the Secretary of State. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. These may include, but are not limited to, rules to: [ 2005, c. 543, Pt. C, §2 (NEW).]

**1. Forms.** Prescribe forms for any or all documents required or permitted to be delivered for filing under this chapter and to refuse to file documents not utilizing these prescribed forms;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Approve filing.** Refuse to file any document that is not clearly legible or that may not be clearly reproducible photographically;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Appoint designee.** Appoint a designee or other agent to receive documents for filing and to file documents on behalf of the Secretary of State;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Electronic filings; facsimile signatures.** Permit the filing of documents by electronic transmission and permit facsimile signatures on documents to be filed;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Effective dates of filings.** Unless specifically stated in this chapter, set forth the effective dates of filings required by this chapter; and

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**6. Annual report filing date.** Provide alternative dates for filing annual reports and for determining the dates covered by those reports.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1457. EXPEDITED SERVICE

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. All fees collected for expedited service must be deposited into a fund for use by the Secretary of State in providing an improved filing service. [2005, c. 543, Pt. C, §2 (NEW).]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1458. ACCESS TO DATA BASE

The Secretary of State may provide public access to the data base through a dial-in modem, through public terminals and through electronic duplicates of the data base. If access to the data base is provided to the public, the Secretary of State may adopt rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures. [2005, c. 543, Pt. C, §2 (NEW).]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1459. PUBLICATIONS

**1. Fee schedule.** The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set the procedures for the sale of these publications.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Deposit in fund.** All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this chapter and for funding new publications.

[ 2005, c. 543, Pt. C, §2 (NEW) .]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

### §1460. FEES; PENALTIES

A document required to be filed under this chapter is not effective until the applicable fee required by this section is paid. The following fees or penalties must be paid to and collected by the Secretary of State:

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**1. Reservation.** For filing of an application for reservation of name or a notice of transfer or cancellation of reservation pursuant to section 1309, subsection 1, a fee of \$20 for each limited partnership affected;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**2. Assumed or fictitious name.** For filing of an application for an assumed name under section 1308, subsection 2, a fee in the amount of \$125, and for filing of an application for a fictitious name under section 1415, a fee of \$40;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**3. Termination of assumed or fictitious name.** For a termination of an assumed name under section 1308, subsection 2, a fee of \$20; for a termination of a fictitious name under section 1415, a fee of \$20;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**4. Registered name.** For filing of an application for a registered name of a foreign limited partnership under section 1309, subsection 2, a fee of \$20 per month for the number of months or fraction of a month remaining in the calendar year when first filing. For filing an application to renew the registration of a registered name, a fee of \$200;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**5. Change of registered agent and registered office or registered office for domestic limited partnerships.**

[ 2007, c. 323, Pt. F, §37 (RP); 2007, c. 323, Pt. G, §4 (AFF) .]

**6. Reinstatement fee after administrative dissolution.** For failure to file an annual report, a fee of \$150, to a maximum fee of \$600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of \$150; for failure to appoint or maintain a

registered agent, a fee of \$150; for failure to notify the Secretary of State that its registered agent or the address of its registered agent has been changed or that its registered agent has resigned, a fee of \$150; for failure to file an amended application, a fee of \$150; and for filing false information, a fee of \$150;

[ 2007, c. 323, Pt. F, §38 (AMD); 2007, c. 323, Pt. G, §4 (AFF) .]

**7. Certificate of limited partnership, amendment or cancellation.** For filing of a certificate of limited partnership under section 1321, a fee of \$175; for a certificate of amendment under section 1322, a fee of \$50; and for a statement of termination under section 1323, a fee of \$75. For filing of a certificate of amendment under section 1322, subsection 2, paragraph D, a fee of \$20, and for filing a restated certificate of limited partnership under section 1322, a fee of \$80;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**8. Certificate of correction.** For filing of a certificate of correction under section 1327, a fee of \$50;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**9. Foreign limited partnerships.** For filing of an application for authority to do business as a foreign limited partnership under section 1412, a fee of \$250. For a certificate of amendment under section 1412-A to change the legal name of the foreign limited partnership, for a certificate of amendment under section 1412-A, subsection 2, paragraph A or B to admit a new general partner or to dissociate a general partner, respectively, or for a certificate of cancellation under section 1417, a fee of \$90. For filing a certificate of amendment under section 1412-A, subsection 2, paragraph C or D to change the address of a general partner or to change the address of the registered or principal office, a fee of \$35;

[ 2007, c. 535, Pt. A, §6 (AMD); 2007, c. 535, Pt. A, §7 (AFF) .]

**10. Photocopies.** For all photocopies, whether certified or not, a fee of \$2 per page. The Secretary of State may issue photocopies of instruments on file as well as other copies;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**11. Certified copies.** For providing certified copies of any instrument on file as provided for by this chapter, a fee of \$5 for each copy certified in addition to any fee due under subsection 10;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**12. Issuing certificate.** For issuing a certificate of existence, certificate of authority or certificate of fact as provided by section 1329, a fee of \$30;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**13. Preclearance of document.** For preclearance of any document for filing, a fee of \$100;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**14. All other filings.** For receiving and filing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee of \$35;

[ 2005, c. 543, Pt. C, §2 (NEW) .]



**15. Annual report.** For filing of an annual report under section 1330 for a domestic limited partnership, a fee of \$85; for filing of an annual report under section 1330 for a foreign limited partnership, a fee of \$150;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**16. Amended annual report.** For filing an amended annual report for a domestic limited partnership under section 1330, subsection 2, a fee of \$85; for filing an amended annual report for a foreign limited partnership under section 1330, subsection 2, a fee of \$150;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**17. Service of process on Secretary of State as agent.** For accepting service of process under section 1317, a fee of \$35;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**18. Articles of merger or conversion.** Articles of merger or conversion of a limited partnership with or to another type of business entity as provided by subchapter 11, a fee of \$150;

[ 2005, c. 543, Pt. C, §2 (NEW) .]

**19. Late filing penalty.** For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of \$50; and

[ 2007, c. 231, §38 (AMD) .]

**20. Certificate of revival after dissolution.** Certificate of revival after dissolution for a domestic limited partnership, as provided in section 1401-A, a fee of \$150.

[ 2007, c. 231, §39 (NEW); 2007, c. 231, §40 (AFF) .]

All fees collected as provided by this chapter must be remitted to the Treasurer of State for the use of the State with the exception of those fees established by rule and collected for expedited service. Fees for expedited service are deposited into a fund for use by the Secretary of State in providing an improved filing service. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW). 2007, c. 231, §§38, 39 (AMD). 2007, c. 231, §40 (AFF). 2007, c. 323, Pt. F, §§37, 38 (AMD). 2007, c. 323, Pt. G, §4 (AFF). 2007, c. 535, Pt. A, §6 (AMD). 2007, c. 535, Pt. A, §7 (AFF).

## §1461. EFFECTIVE DATE

This chapter takes effect July 1, 2007. [2005, c. 543, Pt. C, §2 (NEW).]

#### SECTION HISTORY

2005, c. 543, §C2 (NEW).

## Chapter 21: LIMITED LIABILITY COMPANIES

### Subchapter 1: GENERAL PROVISIONS

#### §1501. SHORT TITLE

This chapter may be known and cited as "the Maine Limited Liability Company Act." [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

##### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

#### §1502. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Articles of organization.** "Articles of organization" means the articles described in former chapter 13, section 622.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Certificate of formation.** "Certificate of formation" means the certificate described in section 1531, and the certificate as amended or restated.

[ 2011, c. 113, Pt. A, §1 (AMD) .]

**3. Constituent limited liability company.** "Constituent limited liability company" means a constituent organization that is a limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Constituent organization.** "Constituent organization" means an organization that is party to a merger.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Converted organization.** "Converted organization" means the organization into which a converting organization converts pursuant to sections 1645 to 1648.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. Converting limited liability company.** "Converting limited liability company" means a converting organization that is a limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**7. Converting organization.** "Converting organization" means an organization that converts into a converted organization pursuant to section 1645.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**8. Debtor in bankruptcy.** "Debtor in bankruptcy" means a person that is the subject of:

A. An order for relief under Title 11 of the United States Code or a successor statute of general application; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. A comparable order under federal, state or foreign law governing insolvency. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**9. Distribution.** "Distribution," except as otherwise provided in section 1555, subsection 4, means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**10. Electronic transmission.** "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**11. Foreign limited liability company.** "Foreign limited liability company" means an organization that is:

A. An unincorporated association or entity; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Organized under laws of a state other than the laws of this State, or under the laws of any foreign country; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Organized under a statute pursuant to which an association or an entity may be formed that affords to each of its members limited liability with respect to the liabilities of the association or entity; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Not required to be registered or organized under any statute of this State other than this chapter. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**12. Foreign organization.** "Foreign organization" means an organization that is formed under the laws of a jurisdiction other than this State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**13. Governing statute.** "Governing statute" means the statute that governs an organization's internal affairs.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**14. Limited liability company.** "Limited liability company," except in the phrase "foreign limited liability company," means an entity formed under this chapter or under former chapter 13 and having one or more members and a limited liability company agreement. The fact that the limited liability company has a certificate of formation filed with the office of the Secretary of State and has one or more members is conclusive evidence that a limited liability company agreement exists.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**15. Limited liability company agreement.** "Limited liability company agreement" means any agreement, whether referred to as a limited liability company agreement, operating agreement or otherwise, written, oral or implied, of the member or members as to the affairs of a limited liability company and the conduct of its activities. A limited liability company agreement of a limited liability company having only one member is not unenforceable by reason of there being only one person who is a party to the limited liability company agreement. A limited liability company agreement includes any amendments to the limited liability company agreement.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**16. Low-profit limited liability company.** "Low-profit limited liability company" means a limited liability company that satisfies the requirements of section 1611.

[ 2011, c. 113, Pt. A, §2 (AMD) .]

**17. Majority of the members.** Unless otherwise provided in the limited liability company agreement, "majority of the members" means members who own more than 50% of the interests in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate.

[ 2011, c. 113, Pt. A, §3 (AMD) .]

**18. Member.** "Member" means a person that has been admitted as a member of a limited liability company under section 1551.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**19. Organization.** "Organization" means, whether domestic or foreign: a partnership, whether general or limited; a limited liability company; a business trust; an association; a corporation; a professional corporation; a professional association; a nonprofit corporation; a government, including a state, county or any other governmental subdivision, agency or instrumentality; or other entity.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**20. Organizational documents.** "Organizational documents" means:

A. For a domestic or foreign general partnership, its partnership agreement; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

C. For a limited liability company or foreign limited liability company, its certificate of formation and limited liability company agreement, or comparable records as provided in its governing statute; [2011, c. 113, Pt. B, §3 (AMD) .]

D. For a domestic or foreign business trust, its agreement of trust and declaration of trust, or comparable records as provided in its governing statute; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

E. For a domestic or foreign corporation for profit, its articles of incorporation, bylaws and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

F. For a domestic or foreign nonprofit corporation, its articles of incorporation, bylaws and other agreements that are authorized by its governing statute, or comparable records as provided in its governing statute; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

G. For a domestic or foreign professional corporation for profit, its articles of incorporation, bylaws and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

H. For any other organization, the basic records that create the organization, determine its internal governance and determine the relations among the persons that own it, have an interest in it or are members of it. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

[ 2011, c. 113, Pt. B, §3 (AMD) .]

**21. Person.** "Person" means, whether domestic or foreign: an individual; a partnership, whether general or limited; a limited liability company; a trust; a business trust; an estate; an association; a corporation; a professional corporation; a professional association; a nonprofit corporation; a government, including a country, state, county or any other governmental subdivision, agency or instrumentality; a custodian; a nominee; a trustee; a personal representative; a fiduciary; or any other individual or entity, or series thereof, in its own or any representative capacity.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**22. Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in written or paper form.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**23. Secretary of State.** "Secretary of State" means the Secretary of State for this State.

[ 2011, c. 113, Pt. A, §4 (AMD) .]

**24. Sign.** "Sign" means, with the present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

B. To attach to or logically associate with the record an electronic symbol, sound or process. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**25. State.** "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**26. Statement of authority.** "Statement of authority" means a statement described in section 1542, subsection 1.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**27. Surviving organization.** "Surviving organization" means an organization into which one or more other organizations are merged whether the organization preexisted the merger or was created by the merger.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**28. Transfer.** "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift and transfer by operation of law.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**29. Transferable interest.** "Transferable interest" means the right, as originally associated with a person's capacity as a member, to receive distributions from a limited liability company in accordance with the limited liability company agreement, whether or not the person remains a member or continues to own any part of the right.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**30. Transferee.** "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §§1-4 (AMD). 2011, c. 113, Pt. B, §3 (AMD).

## §1503. KNOWLEDGE; NOTICE

**1. Knows.** A person knows a fact when the person:

A. Has actual knowledge of it; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Is deemed to know it under law other than this chapter. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Notice.** A person has notice of a fact when the person:

A. Knows of it; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Receives notification of it; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Has reason to know the fact from all of the facts known to the person at the time in question; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Is deemed to have notice of the fact under subsection 4. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Notifies.** A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Nonmember; notice.** A person that is not a member is deemed to have notice of a limited liability company's:

A. Matters included in the certificate of formation under section 1531, subsection 1, paragraph A, upon filing; [2011, c. 113, Pt. A, §5 (AMD).]

B. Termination, 90 days after a certificate of cancellation under section 1533 becomes effective; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Merger or conversion, 90 days after a statement of merger or statement of conversion under subchapter 12 becomes effective; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Revival, 90 days after a certificate of revival under section 1604 becomes effective. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2011, c. 113, Pt. A, §5 (AMD).]

**5. Member; knowledge, notice or receipt of notification.** A member's knowledge, notice or receipt of a notification of a fact relating to the limited liability company is not knowledge, notice or receipt of a notification of a fact by the limited liability company solely by reason of the member's capacity as a member.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §5 (AMD).

## §1504. NATURE, PURPOSE AND DURATION OF LIMITED LIABILITY COMPANY

**1. Distinct entity.** A limited liability company is an entity distinct from its members.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**2. Any lawful purpose.** A limited liability company may have any lawful purpose, regardless of whether for profit.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**3. Duration.** A limited liability company has perpetual duration.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1505. CAPACITIES AND POWERS

**1. To sue, be sued.** A limited liability company has the capacity to sue and be sued in its own name.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**2. To hold property.** A limited liability company has the capacity to hold property in its own name.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**3. Power to carry out activities.** A limited liability company has the power to do all things necessary or convenient to carry on its activities.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1506. GOVERNING LAW

The law of this State governs: [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**1. Internal affairs.** The internal affairs of a limited liability company; and

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Liability.** The liability of a member as a member for the debts, obligations or other liabilities of a limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1507. RULES OF CONSTRUCTION

**1. Freedom of contract.** It is the policy of this chapter and this State to give maximum effect to the principles of freedom of contract and to the enforceability of limited liability company agreements.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Principles of law and equity.** Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. No application.** Rules that statutes in derogation of the common law are to be strictly construed do not apply to this chapter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Subject to amendment or repeal.** A limited liability company and a foreign limited liability company are subject to any amendment or repeal of this chapter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]



**5. Assignments.** Title 11, sections 9-1406 and 9-1408 do not apply to any interest in a limited liability company, including all rights, powers and interests arising under a limited liability company agreement or this chapter. This subsection prevails over Title 11, sections 9-1406 and 9-1408 and is intended to permit the enforcement of the provisions of a limited liability company agreement that would otherwise be ineffective under Title 11, sections 9-1406 and 9-1408.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1508. LIMITED LIABILITY COMPANY NAME

**1. Requirements.** A limited liability company name must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.," "LLC," "L.C." or "LC" or, in the case of a low-profit limited liability company, "L3C" or "l3c" unless the limited liability company is filing an assumed name under section 1510 or a registration of a name of a foreign limited liability company under section 1511. The word "limited" may be abbreviated as "Ltd.," and "company" may be abbreviated as "Co." If the words "Limited Liability Company," "Limited Liability Company, Chartered," "Limited Liability Company, Professional Association," "Limited Liability Company, P.A." or any of the designations without commas are used, a limited liability company may also use the abbreviation "L.L.C." or the designation "LLC" without filing an assumed name under section 1510. In the case of a low-profit limited liability company, if the words "Low-profit Limited Liability Company" are used, a limited liability company may also use the abbreviation "L3C" or the designation "l3c" without filing an assumed name under section 1510.

[ 2013, c. 58, §1 (AMD) .]

**2. Distinguishable name.** Except as authorized by subsections 4 and 5, a limited liability company name must be distinguishable on the records of the office of the Secretary of State from:

- A. The name of a corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- B. Assumed, fictitious, reserved and registered name filings for all entities; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- C. Marks registered under Title 10, chapter 301-A unless the registered owner or holder of the mark is the same person or entity as the limited liability company seeking to use a name that is not distinguishable on the records of the office of the Secretary of State and files proof of ownership with the Secretary of State. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Refuse to file name.** The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

- A. Consists of or comprises language that is obscene; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- B. Inappropriately promotes abusive or unlawful activity; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- C. Falsely suggests an association with public institutions; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Violates any other provision of the law of this State with respect to names. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Authorization to use name.** A limited liability company may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the office of the Secretary of State from one or more of the names described in subsection 2. The Secretary of State shall authorize use of the name applied for if:

A. The entity in possession of the name consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable on the records of the office of the Secretary of State from the name of the applicant; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The applicant delivers to the office of the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Use of another limited liability company's name.** A limited liability company may use the name, including the assumed or fictitious name, of another limited liability company or foreign limited liability company that is used in this State if the other limited liability company is organized or authorized to transact business in this State and the limited liability company proposing to use the name:

A. Has merged with the other limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Has been formed by reorganization of the other limited liability company; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Has acquired all or substantially all of the assets, including the limited liability company name, of the other limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2011, c. 113, Pt. B, §4 (AMD) .]

**6. Determining distinguishability.** In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

A. Words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited company," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "limited liability limited partnership," "service corporation" and "professional corporation"; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The presence or absence of the words or symbols of the words "and" and "the"; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Differences in the use of punctuation, capitalization or special characters. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**7. Change of limited liability company name by foreign limited liability company.** If a foreign limited liability company that has filed a statement of foreign qualification in this State changes its name to one that does not satisfy the requirements of this section, it may not transact business in this State under the

proposed new name until it adopts a name satisfying the requirements of this section and files an amended statement of foreign qualification under section 1622, subsection 3 that is accompanied by a statement of use of a fictitious name under section 1510.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**8. Exception.** Notwithstanding subsection 2, a foreign limited liability company may use a name that is not distinguishable on the records of the office of the Secretary of State if the foreign limited liability company was authorized to do business in this State before January 1, 1995 and had the right to use that name as its legal name before that date.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §4 (AMD). 2013, c. 58, §1 (AMD).

### §1509. RESERVATION OF NAME

**1. Reserve use of name.** A person may reserve the exclusive use of a limited liability company name, including an assumed or fictitious name, by executing and delivering for filing an application to the office of the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited liability company name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

[ 2013, c. 99, §5 (AMD) .]

**2. Transfer of reservation.** The owner of a reserved limited liability company name under subsection 1 may transfer the reservation to another person by executing and delivering for filing to the office of the Secretary of State a notice of the transfer, signed by the transferor, that states the name and address of the transferee.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2013, c. 99, §5 (AMD).

### §1510. ASSUMED OR FICTITIOUS NAME OF LIMITED LIABILITY COMPANY

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Assumed name" means a trade name or any name other than the real name of a limited liability company except a fictitious name. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. "Fictitious name" means a name adopted by a foreign limited liability company that has filed a statement of foreign qualification in this State because its real name is unavailable pursuant to section 1508. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Authorized to transact business.** Upon complying with this section, a limited liability company or foreign limited liability company that has filed a statement of foreign qualification in this State may transact its business in this State under one or more assumed or fictitious names.

[ 2011, c. 113, Pt. B, §5 (AMD) .]

**3. File statement indicating use of assumed or fictitious name.** Prior to transacting business in this State under an assumed or fictitious name, a limited liability company shall execute and deliver to the office of the Secretary of State for filing a statement setting forth:

A. The limited liability company name; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. That the limited liability company intends to transact business under an assumed or fictitious name; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The assumed or fictitious name that the limited liability company proposes to use; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. If the assumed name is not to be used at all of the limited liability company's places of business in this State, the locations where that name will be used; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. If the company is a foreign limited liability company:

(1) The jurisdiction of organization; and

(2) The date on which it was authorized to transact business in this State. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

A separate statement must be executed and delivered to the office of the Secretary of State for filing with respect to each assumed or fictitious name that the limited liability company proposes to use.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Compliance required.** An assumed or fictitious name must comply with the requirements of section 1508.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Enjoin use of assumed or fictitious name.** If a limited liability company uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. Enjoin use despite compliance.** Notwithstanding its compliance with the requirements of this section, the use of an assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by such use if:

A. The assumed or fictitious name did not, at the time the statement required by subsection 3 was filed, comply with the requirements of section 1508; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The assumed or fictitious name is not distinguishable on the records of the office of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices and common law copyright or similar law. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

The mere filing of a statement pursuant to subsection 3 does not constitute actual use of the assumed or fictitious name set out in that statement for the purpose of determining priority of rights.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**7. Terminate use of assumed or fictitious name.** A limited liability company may terminate an assumed or fictitious name by executing and delivering to the office of the Secretary of State a statement setting forth:

A. The name of the limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. That the limited liability company no longer intends to transact business under the assumed or fictitious name; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The assumed or fictitious name the limited liability company intends to terminate. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §5 (AMD).

## §1511. REGISTERED NAME OF FOREIGN LIMITED LIABILITY COMPANY

**1. Register limited liability company name.** A foreign limited liability company may register its limited liability company name if the name is distinguishable on the records of the office of the Secretary of State pursuant to section 1508.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Application.** To register its limited liability company name, a foreign limited liability company must execute and deliver to the office of the Secretary of State for filing an application that:

A. Sets forth its limited liability company name, the state or other jurisdiction of its organization, the date of its organization in its jurisdiction of organization, the address of its principal office wherever located and a brief description of the nature of the business in which it is engaged; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability company records in the state or other jurisdiction under whose law the foreign limited liability company is organized. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Applicant's exclusive use.** A limited liability company name is registered for a foreign limited liability company's exclusive use upon the effective date of the application under subsection 2 until the end of the calendar year in which the application was filed.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Renewal of registered name.** A foreign limited liability company whose registration under this section is effective may renew it for a successive year by delivering for filing to the office of the Secretary of State between October 1st and December 31st a renewal application that complies with the requirements of subsection 2. The renewal application, when filed, renews the registration for the following calendar year.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Qualify as foreign limited liability company.** A foreign limited liability company whose registration under this section is effective may, after the registration is effective, file a statement of foreign qualification as a foreign limited liability company under the registered name or may consent in writing to the use of that name by a limited liability company organized under this chapter or by another foreign limited liability company authorized to transact business in this State. The registration terminates when the limited liability company is organized or the foreign limited liability company files a statement of foreign qualification or consents to the qualification of another foreign limited liability company under the registered name.

[ 2011, c. 113, Pt. B, §6 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §6 (AMD).

### Subchapter 2: LIMITED LIABILITY COMPANY AGREEMENT; PROVISIONS OF CHAPTER THAT MAY NOT BE MODIFIED BY THE LIMITED LIABILITY COMPANY AGREEMENT

## §1521. LIMITED LIABILITY COMPANY AGREEMENT; SCOPE, FUNCTION AND LIMITATIONS

**1. Agreement governs.** Except as otherwise provided in subsection 3 and section 1522, the limited liability company agreement governs relations among the members as members and between the members and the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. When agreement does not otherwise provide.** To the extent the limited liability company agreement does not otherwise provide for a matter described in subsection 1, this chapter governs the matter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Expansion, restriction or elimination of duties.** Except as provided in section 1611, a member's or other person's duties may be expanded, restricted or eliminated as provided in this subsection.

A. To the extent that, at law or in equity, a member or other person has duties, including fiduciary duties, to the limited liability company or to another member or to another person that is a party to or is otherwise bound by a limited liability company agreement, the member's or other person's duties may be expanded or restricted or eliminated by provisions in a written limited liability company agreement; except that the implied contractual covenant of good faith and fair dealing may not be eliminated.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. A written limited liability company agreement may provide for the limitation or elimination of any liabilities for breach of contract and breach of duties, including fiduciary duties, of a member or other person to a limited liability company or to another member or to another person that is a party to or is otherwise bound by a limited liability company agreement. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. No liability for good faith reliance on agreement.** Unless otherwise provided in a limited liability company agreement, a member or other person is not liable to a limited liability company or to another member or to another person that is a party to or is otherwise bound by a limited liability company agreement for breach of fiduciary duty for the member's or other person's good faith reliance on the provisions of the limited liability company agreement.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## **§1522. PROVISIONS OF THE CHAPTER THAT MAY NOT BE MODIFIED BY THE LIMITED LIABILITY COMPANY AGREEMENT**

**1. Prohibited contents.** A limited liability company agreement may not:

A. Vary the distinction between the limited liability company as an entity and its members under section 1504, subsection 1; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Vary a limited liability company's capacity under section 1505 to sue and be sued in its own name; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Vary the law applicable under section 1506; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Except as otherwise provided in section 1524, subsection 2, restrict the rights under this chapter of a person other than a member or transferee; [2011, c. 113, Pt. A, §6 (AMD).]

E. Vary the power of the court under section 1677; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

F. Eliminate or limit a member's liability to the limited liability company and members for money damages for a bad faith violation of the implied contractual covenant of good faith and fair dealing; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

G. Waive the requirement of section 1553, subsection 1 that a contribution obligation be in writing; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

H. Vary the requirement to wind up the limited liability company's business as specified in section 1597. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2011, c. 113, Pt. A, §6 (AMD) .]

**2. Good faith and fair dealing.** Notwithstanding any contrary provision of law, there exists an implied contractual covenant of good faith and fair dealing in every limited liability company agreement.

[ 2011, c. 113, Pt. A, §7 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §§6, 7 (AMD).

### **§1523. LIMITED LIABILITY COMPANY AGREEMENT; EFFECT ON LIMITED LIABILITY COMPANY AND PERSONS ADMITTED AS MEMBERS; PREFORMATION AGREEMENT**

**1. Agreement binding and enforceable.** A limited liability company is bound by and may enforce the limited liability company agreement, whether or not the limited liability company has itself manifested assent to the limited liability company agreement.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Member a party.** A person that is admitted as a member of a limited liability company becomes a party to and assents to the limited liability company agreement except as provided in section 1553, subsection 1.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Initial members agreement.** Two or more persons intending to be the initial members of a limited liability company may make an agreement providing that upon the formation of the limited liability company the agreement becomes the limited liability company agreement. One person intending to be the initial member of a limited liability company may assent to terms providing that upon the formation of the limited liability company the terms will become the limited liability company agreement.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### **SECTION HISTORY**

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### **§1524. LIMITED LIABILITY COMPANY AGREEMENT; EFFECT ON 3RD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANY**

**1. Manner of amendment.** If a limited liability company agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the limited liability company agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law. The approval of the person may be waived by the person and any conditions may be waived by all persons for whose benefit those conditions were intended.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Rights provided.** A limited liability company agreement may provide rights to any person, including a person who is not a party to the limited liability company agreement, to the extent set forth in the agreement.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Obligations to transferee or dissociated member.** The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member are governed by the limited liability company agreement. An amendment to the limited liability company agreement made



after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### Subchapter 3: FORMATION, CERTIFICATE OF FORMATION AND OTHER FILINGS

## §1531. FORMATION OF LIMITED LIABILITY COMPANY; CERTIFICATE OF FORMATION

#### 1. Formation requirements. In order to form a limited liability company:

A. One or more authorized persons must execute a certificate of formation. The certificate of formation must be filed in the office of the Secretary of State and set forth:

- (1) The name of the limited liability company;
- (2) The information required by Title 5, section 105, subsection 1; and
- (3) Any other matters the members determine to include. The certificate of formation may include the information required for a statement of authority as provided in section 1542, subsection 1; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. A limited liability company agreement must be entered into or otherwise existing. The limited liability company agreement may be entered into either before, after or at the time of the filing of a certificate of formation. Whether entered into or otherwise existing before, after or at the time of the filing of a certificate of formation, a limited liability company agreement may be made effective as of the formation of the limited liability company or at another time or date as provided in or reflected by the limited liability company agreement; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The limited liability company must have one or more members. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Time formed.** A limited liability company is formed at the time of the filing of the initial certificate of formation in the office of the Secretary of State or at any later date or time specified in the certificate of formation if, in either case, there has been substantial compliance with the requirements of this section. A limited liability company formed under this chapter is a separate legal entity.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Notice.** The fact that a certificate of formation is on file in the office of the Secretary of State is notice of the matters required to be included by subsection 1, paragraph A, subparagraphs (1) and (2) and matters that may be included pursuant to section 1611, subsection 2, but is not notice of any other fact.

[ 2011, c. 113, Pt. A, §8 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §8 (AMD).

## §1532. AMENDMENT OR RESTATEMENT OF CERTIFICATE OF FORMATION

**1. Time of amendment or restatement.** A certificate of formation may be amended or restated at any time.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Restatement with or without amendment.** A certificate of formation may be restated with or without amendment at any time.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Contents of amendment.** To amend its certificate of formation, a limited liability company must deliver to the office of the Secretary of State for filing an amendment stating:

A. The name of the limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The date of filing of the limited liability company's certificate of formation; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The changes the amendment makes to the certificate of formation as most recently amended or restated. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Restated certificate of formation.** A restated certificate of formation may be delivered to the office of the Secretary of State for filing in the same manner as an amendment. Any amendment or change effected in connection with the restatement of the certificate of formation is subject to any other provision of this chapter, not inconsistent with this section, that would apply if a separate certificate of amendment were filed to effect such amendment or change.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Superseded.** The original certificate of formation, as amended or supplemented, is superseded by the restated certificate of formation, and from that time forward the restated certificate of formation, including any further amendment or changes made thereby, is the certificate of formation of the limited liability company, but the original effective date of formation remains unchanged.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1533. CANCELLATION OF CERTIFICATE OF FORMATION

**1. Cancellation.** A certificate of formation is cancelled upon each of the following:

A. The dissolution and the completion of winding up and liquidation of the activities and affairs of a limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. As provided in section 1593, subsection 4; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation, or upon the future effective date or time of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting converted organization in a merger or consolidation; or [2011, c. 113, Pt. A, §9 (AMD).]

D. Upon the filing of a certificate of conversion to a foreign organization or upon the future effective date or time of a certificate of conversion to a foreign organization. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2011, c. 113, Pt. A, §9 (AMD).]

**2. Certificate of cancellation.** A certificate of cancellation must be delivered for filing in the office of the Secretary of State to accomplish the cancellation of a certificate of formation upon the dissolution and the completion of winding up of a limited liability company and must set forth:

A. The name of the limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The date of filing of the limited liability company's certificate of formation; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. A statement that the limited liability company is dissolved and the date of dissolution, if known; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. The future effective date or time, which must be a date or time certain, of cancellation if it is not to be effective upon the filing of the certificate of cancellation; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. Any other information the person filing the certificate of cancellation determines necessary. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**3. Certificate of good standing.** The Secretary of State may not issue a certificate of good standing with respect to a limited liability company if its certificate of formation is cancelled.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**4. Application of section 1544.** The filing of a certificate of cancellation by the Secretary of State does not abate, suspend or otherwise alter the application of section 1544.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §9 (AMD).

## Subchapter 4: RELATIONS OF MEMBERS TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

### §1541. POWER TO BIND LIMITED LIABILITY COMPANY

A person may not bind a limited liability company except: [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Under or pursuant to agreement.** To the extent the person is authorized to act as the limited liability company's agent under or pursuant to the limited liability company agreement;

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**2. By members.** To the extent the person is authorized by the members to act as the limited liability company's agent pursuant to section 1556;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Pursuant to statement of authority.** To the extent provided in section 1542;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. No statement of authority.** If there is no statement of authority in effect, any manager, member, president or treasurer of a limited liability company has the authority to bind the limited liability company; or

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. As provided by law.** To the extent otherwise provided by law.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1542. STATEMENT OF AUTHORITY

**1. Statement delivered for filing.** A limited liability company may deliver to the office of the Secretary of State for filing a statement of authority. The statement:

A. Must include the name of the limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. May state the authority, or limitations on the authority, of a specific person or persons to enter into transactions on behalf of, or otherwise act for or bind, the limited liability company; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. With respect to any position that exists in or with respect to the limited liability company, may state the authority, or limitations on the authority, of all persons holding the position to enter into transactions on behalf of, or otherwise act for or bind, the limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Amendment or cancellation delivered for filing.** To amend or cancel a statement of authority filed with the office of the Secretary of State, a limited liability company must deliver to the office of the Secretary of State for filing an amendment or cancellation stating:

A. The name of the limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The date the statement of authority was filed; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The contents of the amendment or a declaration that the statement of authority being affected is cancelled. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Effective statement of authority conclusive.** An effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value the person has knowledge to the contrary.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Certificate of cancellation.** Upon filing, a certificate of cancellation filed pursuant to section 1533 operates as a cancellation under subsection 2 of each statement of authority.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Statement of denial.** Upon filing, a statement of denial filed pursuant to section 1543 operates as an amendment under subsection 2 of the statement of authority to which the statement of denial pertains.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1543. STATEMENT OF DENIAL

A person named in a filed statement of authority may deliver to the office of the Secretary of State for filing a statement of denial that: [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Name and date.** States the name of the limited liability company and the date of filing of the statement of authority to which the statement of denial pertains;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Denial of authority.** Denies the person's authority; and

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Notice to limited liability company.** States that the person has furnished the limited liability company with a copy of the statement of denial.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1544. LIABILITY OF MEMBERS TO 3RD PARTIES

A person who is a member of a limited liability company is not liable, solely by reason of being a member, under a judgment, decree or order of a court, or in any other manner, for a debt, obligation or liability of the limited liability company, whether arising in contract, tort or otherwise or for the acts or omissions of any other member, agent or employee of the limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## Subchapter 5: RELATIONS OF MEMBERS TO EACH OTHER AND TO LIMITED LIABILITY COMPANY

## §1551. ADMISSION OF A MEMBER

**1. In connection with formation.** In connection with the formation of a limited liability company, a person is admitted as a member of the limited liability company upon the later of:

- A. The formation of the limited liability company; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- B. The time provided in and upon compliance with the limited liability company agreement or, if the limited liability company agreement does not so provide, when the person's admission is reflected in the records of the limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. After formation.** After formation of a limited liability company, a person is admitted as a member of the limited liability company:

- A. As provided in the limited liability company agreement; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- B. As the result of a transaction effective under subchapter 12; [2011, c. 113, Pt. A, §10 (AMD) .]
- C. With the consent of all the members; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- D. If, within 90 consecutive days after the limited liability company ceases to have any members:
  - (1) All holders of the transferable interest last transferred by the last person to have been a member consent to the designation of a person to be admitted as a member; and
  - (2) The designated person consents to be admitted as a member effective as of the date the last person to have been a member ceased to be a member. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2011, c. 113, Pt. A, §10 (AMD) .]

**3. Admission without transferable interest or contribution.** A person may be admitted as a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §10 (AMD).

## §1552. FORM OF CONTRIBUTION

A contribution may consist of cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to perform services. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1553. LIABILITY FOR CONTRIBUTIONS

**1. Promise in writing.** A promise by a member to make a contribution to a limited liability company is not enforceable unless set forth in a writing signed by the member.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Obligation not excused.** A member's obligation to make a contribution to a limited liability company is not excused by the member's death, disability or other inability to perform personally. If a member does not make a contribution required by an enforceable promise, the member or the member's estate is obligated, at the option of the limited liability company, to contribute money equal to the value of the portion of the contribution that has not been made. The limited liability company's option is in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have under the limited liability company agreement or applicable law.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Obligation compromised.** The obligation of a member may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit after the entering into of a limited liability company agreement or an amendment to the agreement that, in either case, reflects the obligation and before an amendment to the agreement that reflects the compromise may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a member to make a contribution. A conditional obligation of a member to make a contribution to a limited liability company may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company prior to the time the call occurs.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1554. SHARING OF AND RIGHT TO DISTRIBUTIONS

**1. Agreed value.** Distributions by a limited liability company before its dissolution and winding up must be made on the basis of the agreed value, as stated in any written records of the limited liability company, of the contributions made by each person or the person's predecessor in interest to the extent contributions have been received by the limited liability company and not returned.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Interim distribution.** A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the limited liability company decides to make an interim distribution. A member's dissociation does not entitle the dissociated member to a distribution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Form of distribution.** A person does not have a right to demand and receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in section 1601, subsection 3, a limited liability company may distribute an asset in kind if each person receives a percentage of the asset equal in value to the member's share of distributions.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Status of creditor.** If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1555. LIMITATIONS ON DISTRIBUTION AND LIABILITY FOR IMPROPER DISTRIBUTIONS

**1. Improper distribution.** A limited liability company may not make a distribution to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their limited liability company interests and liabilities for which the recourse of creditors is limited to specific property of the limited liability company, exceed the fair value of the assets of the limited liability company, except that the fair value of the property that is subject to a liability for which recourse of creditors is limited must be included in the assets of the limited liability company only to the extent that the fair value of the property exceeds that liability.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Liability for improper distribution.** A person who receives a distribution in violation of subsection 1, and who knew at the time of the distribution that the distribution violated subsection 1, is liable to the limited liability company for the amount of the distribution. A person who receives a distribution in violation of subsection 1, and who did not know at the time of the distribution that the distribution violated subsection 1, is not liable for the amount of the distribution. Subject to subsection 4, this subsection does not affect any obligation or liability of a person under an agreement or other applicable law for the amount of a distribution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Action barred after 2 years.** An action under this section is barred if not commenced within 2 years after the distribution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Distribution exclusions.** For purposes of this section, "distribution" does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Distribution made in accordance with section 1601.** This section does not apply to distributions made in accordance with section 1601.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).



## §1556. ACTIVITIES AND AFFAIRS OF LIMITED LIABILITY COMPANY

**1. Direction; oversight of members.** The activities and affairs of a limited liability company are under the direction, and subject to the oversight, of its members.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Majority of members.** A matter in the ordinary course of activities of a limited liability company may be decided by a majority of the members.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. All members.** The consent of all members of a limited liability company is required to:

A. Approve a merger or conversion under subchapter 12; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

B. Amend the limited liability company agreement; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

C. Undertake any other act outside the ordinary course of the limited liability company's activities; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

D. Undertake, authorize or approve any other act or matter for which this chapter requires the consent of all members. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Without meeting; agent.** Any matter requiring the consent of the members of a limited liability company may be decided without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. After dissolution, majority of members.** After dissolution, a matter in the ordinary course of winding up the activities of a limited liability company may be decided by a majority of the members.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. No entitlement to remuneration.** This chapter does not entitle a member to remuneration for services performed for a limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1557. INDEMNIFICATION, ADVANCEMENT, REIMBURSEMENT AND INSURANCE

A limited liability company may indemnify and hold harmless a member or other person, pay in advance or reimburse expenses incurred by a member or other person and purchase and maintain insurance on behalf of a member or other person. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1558. RIGHT OF MEMBERS AND DISSOCIATED MEMBERS TO INFORMATION

**1. Member; inspect and copy record.** On 10 days' notice made in a record received by a limited liability company, a member may inspect and copy during regular business hours, at a reasonable location specified by the limited liability company, any record maintained by the limited liability company, to the extent the information is material to the member's rights and duties under the limited liability company agreement or this chapter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Dissociated member; inspect and copy.** On 30 days' notice made in a record received by a limited liability company, a dissociated member may inspect and copy, during regular business hours, at a reasonable location specified by the limited liability company, any record maintained by the limited liability company, to the extent the information pertains to the period during which the person was a member, the information was material to the person's rights and duties under the limited liability company agreement or this chapter when the person was a member and the person seeks the information in good faith.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Reasonable costs.** A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Agent or representative.** A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the limited liability company agreement or under subsection 6 applies both to the agent or legal representative and the member or dissociated member.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Transferee.** The rights under this section do not extend to a transferee.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. Additional restrictions.** In addition to any restriction or condition stated in its limited liability company agreement, a limited liability company, as a matter within the ordinary course of its activities, may:

A. Impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

B. Keep confidential from the members and any other persons, for a period of time the limited liability company considers reasonable, any information that the limited liability company reasonably believes to be in the nature of trade secrets or other information the disclosure of which the limited liability company in good faith believes is not in the best interest of the limited liability company or could

damage the limited liability company or its activities or that the limited liability company is required by law or by agreement with a 3rd party to keep confidential. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1559. DUTIES OF MEMBERS AND OTHER PERSONS

Except as may be set forth in the limited liability company agreement in accordance with sections 1521 and 1522, the following provisions apply. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Good faith; diligence; care; skill.** Persons shall discharge their duties under this chapter in good faith with a view to the interests of the limited liability company and of the members and with the degree of diligence, care and skill that ordinarily prudent persons would exercise under similar circumstances in like positions. For purposes of this section, the interests of each low-profit limited liability company and its members include furthering the purposes set forth in its certificate of formation consistent with statements required to be made in its certificate of formation pursuant to section 1611, subsection 2.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**2. Personal liability.** A member or other person may not be held personally liable for monetary damages for failure to discharge any duty unless the member or other person is found not to have acted honestly or in the reasonable belief that the action was in or not opposed to the best interests of the limited liability company or its members.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**3. Fiduciary duty.** Subject to the terms of section 1521, subsection 3, paragraph A, a member not involved in the management of a limited liability company does not have a fiduciary duty to the limited liability company, or to any other member, or to another person that is a party to or is otherwise bound by a limited liability company agreement, solely by reason of being a member. A member may not be considered to be involved in the management of a limited liability company as a result of the following:

A. Having the right to vote or elect those persons that will manage the business of a limited liability company; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Having the power to vote on, approve or veto certain material transactions or actions involving the limited liability company, including the sale, merger, conversion or dissolution of a limited liability company, the amendment of the limited liability company agreement or its certificate of formation, the issuance of additional interests or admission of new members, the incurrence of indebtedness or granting of liens, the acquisition of another business or any portion of another business, however effected, the timing and amount of distributions or the undertaking of any other action outside the ordinary course of the limited liability company's activities. The actions and transactions described in this paragraph are not intended to be exclusive and no inference may be made from the absence of a particular action or transaction from the list of actions and transactions in this paragraph. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1560. NATURE OF PROFESSIONAL LIMITED LIABILITY COMPANY BUSINESS

A professional limited liability company, as defined in Title 13, section 723, subsection 5, is subject to the Maine Professional Service Corporation Act except as follows. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. No application.** Title 13, sections 722, 733, 736, 751, 762 and 763, Title 13, section 771, subsection 2, paragraph A and Title 13, section 772 do not apply.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Application.** All references to:

A. Shareholders are deemed to be references to members and transferees; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Corporations or corporations organized or incorporated under the Maine Professional Service Corporation Act are deemed to be references to professional limited liability companies; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Stock are deemed to be references to transferable interests; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Officers and directors are deemed to be references to the officers and directors of the limited liability company, if any, and otherwise to any individuals having comparable management authority in respect of the limited liability company. References to clerk, treasurer and secretary are deemed to be references to such persons having comparable authority in respect of the limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## Subchapter 6: TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

### §1571. MEMBER'S TRANSFERABLE INTEREST

The only interest of a member that is transferable is the member's transferable interest. A transferable interest in a limited liability company is personal property. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1572. TRANSFER OF TRANSFERABLE INTEREST

**1. Transferable interest.** A transfer, in whole or in part, of a transferable interest:

A. Is permissible; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Subject to section 1574, does not entitle the transferee to:

- (1) Participate in the management or conduct of the limited liability company's activities; or
  - (2) Have access to records or other information concerning the limited liability company's activities.
- [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**2. Distributions.** A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**3. Evidence.** A transferable interest may be evidenced by a certificate of transferable interest issued by a limited liability company. A limited liability company agreement may provide for the transfer of the transferable interest represented by the certificate and make other provisions with respect to the certificate. A limited liability company does not have the power to issue a certificate of transferable interest in bearer form.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**4. Written notice of transfer required.** A limited liability company need not give effect to a transferee's rights under this section until the limited liability company has written notice of the transfer.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**5. Rights and duties of member after transfer.** Except as otherwise provided in section 1582, subsection 4, paragraph B and section 1582, subsection 11, when a member transfers a transferable interest, the transferor retains the rights of a member other than the interest in distributions transferred and retains all duties and obligations of a member.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**6. Transferee an admitted member.** When a member transfers a transferable interest to a person that is admitted as a member with respect to the transferred interest, the transferee is liable for the member's obligations under section 1553 and section 1555, subsection 2 known to the transferee when the transferee voluntarily accepts admission as a member.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**7. Account of transactions.** In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the limited liability company's transactions only from the date of dissolution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1573. CHARGING ORDER

**1. Transferable interest of judgment debtor.** On application to a court of competent jurisdiction by any judgment creditor of a member or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so

charged and after the limited liability company has been served with the charging order and its terms, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of such transferable interest.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Payment to clerk of court.** A limited liability company, after being served with the charging order and its terms, is entitled to pay or deposit any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of the charged transferable interest into the hands of the clerk of the court issuing the charging order, and the payment or deposit has the effect of discharging the limited liability company and the judgment debtor from liability for the amount so paid and any interest that might accrue thereon. Upon receipt of the payment, the clerk of the court shall notify the judgment creditor of the receipt of the payment. The judgment creditor shall, after the payment or deposit into the court, petition the court for payment of so much of the amount paid or deposited as is held by the court as may be necessary to pay the judgment creditor's judgment. To the extent the court has excess amounts paid or deposited on hand after the payment to the judgment creditor, the excess amounts paid or deposited must be distributed to the judgment debtor and the charging order must be extinguished. The court may in its discretion order the clerk to deposit, pending the judgment creditor's petition, any money paid or deposited with the clerk in an interest-bearing account at a bank authorized to receive deposits of public funds.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Lien.** A charging order constitutes a lien on the judgment debtor's transferable interest. The charging order lien may not be foreclosed upon under this chapter or any other law.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Judgment debtor.** Subject to subsection 3:

A. A judgment debtor that is a member retains the rights of a member and remains subject to all duties and obligations of a member; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. A judgment debtor that is a transferee retains the rights of a transferee and remains subject to all duties and obligations of a transferee. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Exemptions apply.** This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. No right to property.** Subject to the laws against fraudulent conveyances, a judgment creditor of a judgment debtor who is a member or transferee has no right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of a limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**7. Exclusive remedy.** This section provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy a judgment out of the judgment debtor's transferable interest, and the judgment creditor may not foreclose upon the charging order or the judgment debtor's transferable interest.

Court orders for actions or requests for accounts and inquiries that the judgment debtor might have made are not available under this chapter to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's transferable interest and may not be ordered by a court.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1574. POWER OF PERSONAL REPRESENTATIVE OF DECEASED MEMBER

If a member dies, the deceased member's personal representative or other legal representative may, for purposes of settling the estate, exercise the rights of a current member under section 1558. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## Subchapter 7: MEMBER'S DISSOCIATION

### §1581. MEMBER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION

**1. Power to dissociate.** A person has the power to dissociate as a member.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Wrongful dissociation.** A person's dissociation from a limited liability company is wrongful only if:

A. It is in breach of an express provision of the limited liability company agreement; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. It occurs before the termination of the limited liability company and:

- (1) The person dissociates as a member by express will;
- (2) The person is expelled as a member by judicial determination under section 1582, subsection 5;
- (3) The person is dissociated by becoming a debtor in bankruptcy or making a general assignment for the benefit of creditors; or
- (4) In the case of a person that is not an individual, a trust other than a business trust or an estate, the person is expelled or otherwise dissociated as a member because the person willfully dissolved or terminated. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Liability.** A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 1631, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation or liability of the member to the limited liability company or the other members.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1582. EVENTS CAUSING DISSOCIATION

A person is dissociated as a member from a limited liability company when: [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Notice.** The limited liability company has notice from the person of the person's express will to dissociate as a member, except if the person specifies in the notice a dissociation date later than the date the limited liability company had notice the person is dissociated as a member, on that later date;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Event.** An event stated in the limited liability company agreement as causing the person's dissociation occurs;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Expulsion pursuant to agreement.** The person is expelled as a member pursuant to the limited liability company agreement;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Expulsion upon unanimous consent.** The person is expelled as a member by the unanimous consent of the other members. A person is expelled under this subsection if:

A. It is unlawful to carry on the limited liability company's activities with the person as a member; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. There has been a transfer of all of the person's transferable interest in the limited liability company other than a transfer for security purposes; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The person is an organization and, within 90 days after the limited liability company notifies the person that it will be expelled as a member because the person has filed a statement of dissolution or the equivalent, its charter has been revoked or its right to conduct activities has been suspended by its jurisdiction of formation, the statement of dissolution or the equivalent has not been revoked or its charter or right to conduct activities has not been reinstated; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. The person is an organization that has been dissolved and whose activities are being wound up; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Expulsion by judicial order.** On application by the limited liability company, the person is expelled as a member by judicial order because the person:

A. Has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the limited liability company's activities; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Has willfully and persistently committed, or is willfully and persistently committing, a material breach of the limited liability company agreement or the person's duty or obligation under this chapter or other applicable law; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]



C. Has engaged, or is engaging, in conduct relating to the limited liability company's activities that makes it not reasonably practicable to carry on the activities with the person as a member; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**6. Death; appointment of guardian or conservator; determination.** In the case of a person who is an individual, the person dies, there is appointed a guardian or general conservator for the person or there is a judicial determination that the person has otherwise become incapable of performing the person's duties as a member under this chapter or the limited liability company agreement;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**7. Bankruptcy; assignment; appointment of trustee, receiver or liquidator.** The person becomes a debtor in bankruptcy, executes an assignment for the benefit of creditors or seeks, consents or acquiesces to the appointment of a trustee, receiver or liquidator of the person or of all or substantially all of the person's property. This subsection does not apply to a person who is the sole remaining member of a limited liability company;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**8. Successor trustee.** In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the limited liability company is distributed, but not solely by reason of the substitution of a successor trustee;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**9. Estate; personal representative of estate.** In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited liability company is distributed, but not solely by reason of the substitution of a successor personal representative;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**10. Termination of legal existence.** In the case of a member that is not an individual, the legal existence of the person otherwise terminates; or

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**11. Transfer of remaining interest.** A person who is a member transfers the person's entire remaining transferable interest but not until the later of:

A. The transferee's becoming a member; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

B. The time the transfer is completed. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1583. EFFECT OF PERSON'S DISSOCIATION AS A MEMBER

**1. No right to participate.** A person who has dissociated as a member has no right to participate in the activities and affairs of the limited liability company and is entitled only to receive the distributions to which that member would have been entitled if the member had not dissociated.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. No discharge from dissociation.** A person's dissociation as a member does not of itself discharge the person from any debt, obligation or liability to a limited liability company or the other members that the person incurred while a member.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. No right to payment.** If a person is dissociated as a member under section 1582 and the limited liability company is not dissolved due to that dissociation, that person has no right on account of that dissociation to any payment from the limited liability company for that person's interest in the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## Subchapter 8: DISSOLUTION, WINDING UP, REINSTATEMENT AND REVIVAL

## §1591. GROUNDS FOR ADMINISTRATIVE DISSOLUTION OF LIMITED LIABILITY COMPANY

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 1592 to administratively dissolve a limited liability company if: [2011, c. 113, Pt. A, §11 (AMD).]

**1. Nonpayment of fees or penalties.** The limited liability company does not pay when due any fees or penalties imposed by this chapter or other law;

[ 2011, c. 113, Pt. A, §11 (AMD) .]

**2. Failure to file annual report.** The limited liability company does not deliver its annual report to the Secretary of State as required by section 1665;

[ 2011, c. 113, Pt. A, §11 (AMD) .]

**3. Failure to pay late filing penalty.** The limited liability company does not pay the annual report late filing penalty as required by section 1667;

[ 2011, c. 113, Pt. A, §11 (AMD) .]

**4. Failure to maintain registered agent.** The limited liability company is without a registered agent in this State as required by section 1661 and Title 5, section 105, subsection 1;

[ 2011, c. 113, Pt. A, §11 (AMD) .]

**5. Failure to notify of change of registered agent or address.** The limited liability company does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111; or

[ 2011, c. 113, Pt. A, §11 (AMD) .]

**6. Filing of false information.** A member, manager or agent of the limited liability company signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the office of the Secretary of State for filing.

[ 2011, c. 113, Pt. A, §11 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §11 (AMD).

## §1592. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION OF LIMITED LIABILITY COMPANY

**1. Notice of determination to administratively dissolve limited liability company.** If the Secretary of State determines that one or more grounds exist under section 1591 for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of that determination as required by subsection 8.

[ 2011, c. 113, Pt. A, §12 (AMD) .]

**2. Administrative dissolution.** The limited liability company is administratively dissolved if, within 60 days after the notice under subsection 1 is issued and is perfected under subsection 8, the Secretary of State determines that the limited liability company has failed to correct the ground or grounds for the dissolution. The Secretary of State shall send notice to the limited liability company as required by subsection 8 that recites the ground or grounds for dissolution and the effective date of dissolution.

[ 2011, c. 113, Pt. A, §12 (AMD) .]

**3. Effect of administrative dissolution; prohibition.** A limited liability company administratively dissolved continues its existence but may not transact any business in this State except as necessary to wind up the affairs of the limited liability company.

[ 2011, c. 113, Pt. A, §12 (AMD) .]

**4. Validity of contracts; right to be sued; right to defend suit.** The administrative dissolution of a limited liability company under this section does not impair:

A. The validity of any contract or act of the limited liability company; [2011, c. 113, Pt. A, §12 (AMD) .]

B. The right of any other party to the contract to maintain any action, suit or proceeding on the contract; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The right of the limited liability company to defend any action, suit or proceeding in any court of this State. [2011, c. 113, Pt. A, §12 (AMD) .]

[ 2011, c. 113, Pt. A, §12 (AMD) .]

**5. Authority of registered agent.** The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

[ 2011, c. 113, Pt. A, §12 (AMD) .]

**6. Protecting limited liability company name after administrative dissolution.** The name of a limited liability company remains in the office of the Secretary of State's record of limited liability company names and is protected for a period of 3 years following administrative dissolution.

[ 2011, c. 113, Pt. A, §12 (AMD) .]

**7. Notice to Superintendent of Financial Institutions in case of financial institution or credit union.**

In the case of a financial institution authorized to do business in this State or a credit union authorized to do business in this State, as defined in Title 9-B, section 131, the Secretary of State shall notify the Superintendent of Financial Institutions within a reasonable time prior to administratively dissolving the financial institution or credit union under this section.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**8. Delivery of notice.** The Secretary of State shall send notice of the determination under subsection 1 by regular mail or other medium as defined by rule by the Secretary of State and the service upon the limited liability company is perfected 5 days after the Secretary of State deposits the notice of the determination in the United States mail, as evidenced by the postmark if mailed postpaid and correctly addressed or delivered by a medium authorized by the Secretary of State to the registered agent of the limited liability company.

[ 2011, c. 420, Pt. B, §1 (AMD); 2011, c. 420, Pt. B, §4 (AFF) .]

SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §12 (AMD). 2011, c. 420, Pt. B, §1 (AMD). 2011, c. 420, Pt. B, §4 (AFF).

## §1593. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION OF LIMITED LIABILITY COMPANY

**1. Application for reinstatement.** A limited liability company administratively dissolved under section 1592 may apply to the Secretary of State for reinstatement within 6 years after the effective date of administrative dissolution. The application must:

- A. State the name of the limited liability company and the effective date of its administrative dissolution; [2011, c. 113, Pt. A, §13 (AMD).]
- B. State that the ground or grounds for dissolution of the limited liability company either did not exist or have been eliminated; and [2011, c. 113, Pt. A, §13 (AMD).]
- C. State that the limited liability company's name satisfies the requirements of section 1508. [2011, c. 113, Pt. A, §13 (AMD).]

[ 2011, c. 113, Pt. A, §13 (AMD) .]

**2. Reinstatement after administrative dissolution.** If the Secretary of State determines that the application contains the information required under subsection 1 and is accompanied by the reinstatement fee set forth in section 1680, subsection 17 and that the information is correct, the Secretary of State shall

cancel the administrative dissolution and prepare a notice of reinstatement that recites that determination and the effective date of reinstatement. The Secretary of State shall use the procedures set forth in section 1592, subsection 8 to deliver the notice to the limited liability company.

[ 2011, c. 113, Pt. A, §13 (AMD) .]

**3. Effect of reinstatement.** When the reinstatement is effective under subsection 2, the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution, and the limited liability company resumes business as if the administrative dissolution had not occurred.

[ 2011, c. 113, Pt. A, §13 (AMD) .]

**4. Cancellation of certificate of formation.** In the event a limited liability company that is administratively dissolved under section 1592 fails to be reinstated in accordance with the terms of this section within 6 years after the effective date of administrative dissolution, the Secretary of State shall cancel the certificate of formation of the limited liability company, effective on the 6th anniversary of the effective date of administrative dissolution.

[ 2011, c. 113, Pt. A, §13 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §13 (AMD).

### **§1594. APPEAL FROM DENIAL OF REINSTATEMENT OF LIMITED LIABILITY COMPANY**

**1. Denial of reinstatement.** If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company under section 1592, subsection 8 with a written notice that explains the reason or reasons for denial.

[ 2011, c. 113, Pt. A, §14 (AMD) .]

**2. Appeal.** A limited liability company may appeal a denial of reinstatement under subsection 1 to the Superior Court of the county where the limited liability company's principal office is located or, if there is no principal office in this State, in Kennebec County within 30 days after the date of the notice of denial. The limited liability company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's notice of administrative dissolution, the limited liability company's application for reinstatement and the Secretary of State's notice of denial.

[ 2011, c. 113, Pt. A, §14 (AMD) .]

**3. Court action.** The court may summarily order the Secretary of State to reinstate an administratively dissolved limited liability company or may take other action the court considers appropriate.

[ 2011, c. 113, Pt. A, §14 (AMD) .]

**4. Final decision.** The court's final decision in an appeal under this section may be appealed as in other civil proceedings.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §14 (AMD).

## §1595. EVENTS CAUSING DISSOLUTION

**1. Events causing dissolution.** A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:

- A. An event or circumstance that the limited liability company agreement states causes dissolution; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- B. The consent of all the members; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- C. The passage of 90 consecutive days during which the limited liability company has no members; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- D. On application by a member, the entry by the Superior Court of an order dissolving the limited liability company on the grounds that it is not reasonably practicable to carry on the limited liability company's activities in conformity with the limited liability company agreement; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- E. On application by a member, the entry by the Superior Court of an order dissolving the limited liability company on the grounds that the members in control of the limited liability company have acted, are acting or will act in a manner that is illegal or fraudulent; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- F. On application by a holder of a transferable interest, the entry by the Superior Court of an order dissolving the limited liability company on the grounds that the limited liability company has no members. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Other remedy.** In a proceeding brought under subsection 1, paragraph E, the court may order a remedy other than dissolution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1596. EFFECT OF DISSOLUTION

**1. Existence; activities.** Until the filing of a certificate of cancellation as provided in section 1533, a dissolved limited liability company continues its existence as a limited liability company but may not carry on any activities except as is appropriate to wind up and liquidate its activities and affairs, including:

- A. Collecting the dissolved limited liability company's assets; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- B. Disposing of the dissolved limited liability company's properties that will not be distributed in kind to persons owning transferable interests; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]
- C. Discharging or making provisions for discharging the dissolved limited liability company's liabilities; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Distributing the dissolved limited liability company's remaining property in accordance with section 1601; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. Doing every other act necessary to wind up and liquidate the dissolved limited liability company's business and affairs. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. No change upon dissolution.** The dissolution of a limited liability company does not:

A. Transfer title to the limited liability company's property; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Prevent the commencement of a proceeding by or against the limited liability company in its limited liability company name; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Abate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Terminate the authority of the limited liability company's registered agent. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1597. RIGHT TO WIND UP BUSINESS AND ACTIVITIES

**1. Wind up activities.** After dissolution, the remaining members, if any, and if none, a person appointed by all holders of the transferable interest last transferred by the last person to have been a member, may wind up the limited liability company's activities.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Judicial supervision.** The Superior Court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the limited liability company's activities:

A. On application of a member, if the applicant establishes good cause; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. On the application of a transferee, if:

(1) The limited liability company does not have any members; and

(2) Within a reasonable time following the dissolution, a person has not been appointed pursuant to subsection 1; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. In connection with a proceeding under section 1595, subsection 1, paragraph E or F. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1598. POWER TO BIND LIMITED LIABILITY COMPANY AFTER DISSOLUTION

After dissolution, a limited liability company is bound by: [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Act of authorized person if appropriate.** The act of a person authorized to wind up the affairs if the act is appropriate for winding up the limited liability company's activities; or

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Act of authorized person if binding before dissolution.** The act of a person authorized to act on behalf of the limited liability company before dissolution if the act would have bound the limited liability company before dissolution, if the other party to the transaction did not have notice of the dissolution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1599. KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY

**1. Disposal of claims.** A dissolved limited liability company may dispose of any known claims against it by following the procedures described in subsection 2 at any time after the effective date of the dissolution of the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Notice.** A dissolved limited liability company may give written notice of the dissolution in a record to the holder of any known claim. The notice must:

A. Describe the information required to be included in a claim; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Provide a mailing address to which the claim is to be sent; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. State the deadline, which may not be fewer than 120 days from the effective date of the notice, by which the dissolved limited liability company must receive the claim; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. State that, if not sooner barred, the claim will be barred pursuant to subsection 3 if not received by the deadline. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Claims barred.** Unless sooner barred by any other statute limiting actions, a claim against a dissolved limited liability company is barred:

A. If a claimant who was given notice under subsection 2 does not deliver the claim to the dissolved limited liability company by the deadline; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]



B. If a claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**4. Claims.** For purposes of this section, "known claim" or "claim" includes unliquidated claims but not does include a contingent liability that has not matured so that there is no immediate right to bring suit or a claim based on an event occurring after the effective date of dissolution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**5. No extension of statute of limitations.** Nothing in this section may be deemed to extend any otherwise applicable statute of limitations.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1600. OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY

**1. Newspaper notice.** In addition to the written notice under section 1599, subsection 2, a dissolved limited liability company may publish notice of its dissolution and request that persons with claims against the dissolved limited liability company present them in accordance with the notice.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**2. Notice.** The notice authorized by subsection 1 must:

A. Be published at least one time in a newspaper of general circulation in the county in which the dissolved limited liability company's principal office is located or, if it has none in this State, in Kennebec County; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

B. Describe the information that must be included in a claim and provide a mailing address to which the claim is to be sent; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

C. State that, if not sooner barred, a claim against the dissolved limited liability company will be barred unless a proceeding to enforce the claim is commenced within 3 years after the publication of the notice. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**3. Three-year statute of limitations.** If a dissolved limited liability company publishes a newspaper notice in accordance with subsection 2, unless sooner barred by any other statute limiting actions, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited liability company within 3 years after the publication date of the newspaper notice:

A. A claimant who was not given written notice under section 1599, subsection 2; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

B. A claimant whose claim was timely sent to the dissolved limited liability company but not acted on by the dissolved limited liability company; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

C. A claimant whose claim is contingent at the effective date of the dissolution of the limited liability company or is based on an event occurring after the effective date of the dissolution of the limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Enforcement of claim.** A claim that is not barred under this section, any other statute limiting actions or section 1599 may be enforced:

A. Against a dissolved limited liability company, to the extent of its undistributed assets; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Except as provided in subsection 8, if the assets of a dissolved limited liability company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less. A person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution of the limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Determination of amount and form of security.** A dissolved limited liability company that published a notice under this section may file an application with the Superior Court of the county where the dissolved limited liability company's principal office is located or, if it has none in this State, in Kennebec County, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved limited liability company or that are based on an event occurring after the effective date of the dissolution of the limited liability company but that, based on the facts known to the dissolved limited liability company, are reasonably estimated to arise after the effective date of the dissolution of the limited liability company. Provision need not be made for any claim that is or is reasonably anticipated to be barred under subsection 3.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. Notice to potential claimants.** Within 10 days after the filing of the application under subsection 5, notice of the proceeding must be given by the dissolved limited liability company to each potential claimant as described in subsection 5.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**7. Guardian ad litem.** The Superior Court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**8. Satisfaction of obligation; claims not enforceable.** Provision by the dissolved limited liability company for security in the amount and the form ordered by the Superior Court under subsection 5 satisfies the dissolved limited liability company's obligation with respect to claims that are contingent, have not been made known to the dissolved limited liability company or are based on an event occurring after the effective date of the dissolution of the limited liability company, and such claims may not be enforced against a person owning a transferable interest to whom assets have been distributed by the dissolved limited liability company after the effective date of the dissolution of the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**9. No extension of statutes of limitations.** Nothing in this section may be considered to extend any otherwise applicable statute of limitations.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## **§1601. APPLICATION OF ASSETS IN WINDING UP LIMITED LIABILITY COMPANY'S ACTIVITIES**

Upon the winding up of a limited liability company, the assets must be applied as follows. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Payment to creditors.** Payment, or adequate provision for payment, must be made to creditors, including, to the extent permitted by law, members who are creditors, in satisfaction of liabilities of the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Surplus.** After a limited liability company complies with subsection 1, any surplus must be distributed:

A. To each person owning a transferable interest that reflects contributions made on account of such transferable interest and not previously returned, in an amount equal to the value of the unreturned contributions; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

B. After the distribution under paragraph A, to each person owning a transferable interest in the proportions in which the owners of transferable interests share in distributions prior to dissolution. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Distribution in proportion to value.** If the limited liability company does not have sufficient surplus to comply with subsection 2, paragraph A, any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## **§1602. REVOCATION OF DISSOLUTION**

**1. Continued; conditions.** Notwithstanding the occurrence of an event set forth in section 1595, subsection 1, paragraph A, B or C, a limited liability company may not be dissolved and its affairs may not be wound up if, prior to the filing of a certificate of cancellation in the office of the Secretary of State, the limited liability company is continued, effective as of the occurrence of such event, pursuant to the following conditions:

A. The affirmative vote or consent has been obtained from the members or other persons entitled to vote or consent at the time that is:

(1) Required to prevent or revoke dissolution under its limited liability company agreement; or

(2) If its limited liability company agreement does not state the vote or consent required to prevent or revoke dissolution, sufficient for dissolution under this chapter, or such greater or lesser vote or consent as is required for dissolution under its limited liability company agreement; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

B. The members and other persons having authority under this chapter and under its limited liability company agreement to bring about or prevent dissolution of the limited liability company have not, before or at the time of the vote or consent required by paragraph A, voted against revocation of dissolution or delivered to the limited liability company their written objection to revocation of dissolution. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

**2. Agreement; vote; consent; objection.** To the extent that a limited liability company's limited liability company agreement provides for the voting rights of members or other persons, for the calling of meetings, for notices of meetings, for consents and actions of members and other persons without a meeting, for establishing a record date for meetings or for other matters concerning the voting or consent of members and other persons, such provisions govern the vote or consent required by subsection 1, paragraph A with respect to the limited liability company and the vote or objection of members and other persons under subsection 1, paragraph B with respect to the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1603. EFFECT OF REVOCATION OF DISSOLUTION

**1. Continuation of activities.** Subject to subsection 2, upon the revocation of dissolution, the limited liability company is deemed for all purposes to have continued its activities as if dissolution had never occurred. Each right inuring to, and each debt, obligation and liability incurred by, the limited liability company after the dissolution must be determined as if the dissolution had never occurred.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

**2. Reliance on dissolution.** The rights of members and other persons arising by reason of reliance on the dissolution before those persons had notice of the revocation of dissolution are not adversely affected by the revocation of dissolution.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1604. REVIVAL OF LIMITED LIABILITY COMPANY AFTER DISSOLUTION

**1. Determination of need to revive company.** If the Secretary of State finds that a limited liability company has dissolved in any manner under this chapter, that the certificate of formation for that limited liability company has been cancelled pursuant to section 1533 and that the limited liability company should be revived for any specified purpose or purposes for a specific period of time, the Secretary of State may

upon application by an interested party accompanied by the payment of the fee required by section 1680 file a certificate of revival in a form or format prescribed by the Secretary of State for reviving the limited liability company.

[ 2011, c. 113, Pt. A, §15 (AMD) .]

**2. Certificate of revival.** The certificate of revival must include:

A. The name of the limited liability company prior to revival; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The name of the limited liability company following revival, which limited liability company name must comply with section 1508; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The date of formation of the limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. The date of dissolution of the limited liability company, if known, together with the date the certificate of cancellation was filed by the Secretary of State; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. The name and address of the registered agent of the limited liability company prior to revival. If the registered agent has resigned or no longer can be located by the limited liability company, the limited liability company shall deliver for filing a form appointing a registered agent as required by Title 5, chapter 6-A, which form must accompany the certificate under this section; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

F. The name and address of the party or parties requesting the revival; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

G. The purpose or purposes for which revival is requested; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

H. The time period needed to complete the purpose or purposes specified under paragraph G. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Notice of revival.** The Secretary of State shall issue a notice to the limited liability company to the address provided in subsection 2, paragraph F stating that the revival has been granted for the purpose or purposes and for the time period specified pursuant to the certificate of revival filed under this section.

[ 2011, c. 113, Pt. A, §15 (AMD) .]

**4. Amendment to certificate of formation.** Once the revival has been granted in accordance with subsection 3, the certificate of revival is deemed to be an amendment to the certificate of formation of the limited liability company, and the limited liability company may not be required to take any further action to amend its certificate of formation under this chapter with respect to the matters set forth in the certificate of revival.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Termination of revival.** When the time period specified in subsection 2, paragraph H has expired, the Secretary of State shall issue a notice to the limited liability company at the address provided in subsection 2, paragraph F that the status of the limited liability company has returned to the status prior to filing the certificate of revival under this section.

[ 2011, c. 113, Pt. A, §15 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §15 (AMD).

## Subchapter 9: LOW-PROFIT LIMITED LIABILITY COMPANIES

### §1611. LOW-PROFIT LIMITED LIABILITY COMPANY

**1. Purpose.** A low-profit limited liability company must at all times significantly further the accomplishment of one or more charitable or educational purposes within the meaning of Section 170(c)(2)(B) of the Internal Revenue Code of 1986, as it may be amended, revised or succeeded, and will not qualify as a low-profit limited liability company but for the relationship to the accomplishment of those charitable or educational purposes.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Qualifications of low-profit limited liability company to be set forth in certificate of formation.**

In order to qualify as a low-profit limited liability company pursuant to this section, the limited liability company's certificate of formation must state that:

A. The company intends to qualify as a low-profit limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The company must at all times significantly further the accomplishment of one or more of the charitable or educational purposes within the meaning of Section 170(c)(2)(B) of the Internal Revenue Code of 1986, as it may be amended, revised or succeeded, and must list the specific charitable or educational purposes the company will further; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. No significant purpose of the company is the production of income or the appreciation of property. The fact that a person produces significant income or capital appreciation is not, in the absence of other factors, conclusive evidence of a significant purpose involving the production of income or the appreciation of property; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. No purpose of the company is to accomplish one or more political or legislative purposes within the meaning of Section 170(c)(2)(D) of the Internal Revenue Code of 1986, or its successor. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

The limited liability company agreement of a low-profit limited liability company must include each statement made in the limited liability company's certification of formation required by this subsection. The fact that the low-profit limited liability company has a certificate of formation filed with the office of the Secretary of State meeting the requirements of this subsection is conclusive evidence that statements set forth in the certificate of formation are included in the low-profit limited liability company's limited liability company agreement.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Change of status.** A company that no longer satisfies the requirements of this section continues to exist as a limited liability company and shall promptly amend its certificate of formation so that its name and purpose no longer identify it as a low-profit limited liability company, L3C or 13C.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Duties of members and other persons.** Notwithstanding section 1521, subsection 3, any company formed as a low-profit limited liability company under this chapter is bound by section 1559 and no member or person may, through the limited liability company agreement or otherwise, restrict or eliminate the duties, including fiduciary duties, set forth in section 1559.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. No limitation.** Nothing in this section prevents a limited liability company that is not organized under this section from electing a charitable or educational purpose in whole or in part for doing business under this chapter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## Subchapter 10: FOREIGN LIMITED LIABILITY COMPANIES

### §1621. GOVERNING LAW

**1. Jurisdiction where formed.** The laws of the State or other jurisdiction under which a foreign limited liability company is formed govern its formation and internal affairs and the liability and authority of its members and agents.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Statement of foreign qualification.** A foreign limited liability company's statement of foreign qualification may not be denied by reason of any difference between the laws of the jurisdiction under which the foreign limited liability company is formed and the laws of this State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Forbidden activities.** A foreign limited liability company, including a foreign limited liability company that has filed a statement of foreign qualification, may not engage in any activities in this State that a limited liability company is forbidden to engage in by the laws of this State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Rights; privileges; duties; restrictions; penalties; liabilities.** A foreign limited liability company that has filed a statement of foreign qualification:

A. Has in this State the same but no greater rights of a limited liability company of like character;  
[2011, c. 113, Pt. A, §16 (NEW).]

B. Has in this State the same but no greater privileges as a limited liability company of like character;  
and [2011, c. 113, Pt. A, §16 (NEW).]

C. Except as otherwise provided by this chapter, is in this State subject to the same duties, restrictions, penalties and liabilities now or later imposed on a limited liability company of like character. [ 2011, c. 113, Pt. A, §16 (NEW).]

[ 2011, c. 113, Pt. A, §16 (RPR) .]

**5. Organization; formation; existence; internal affairs.** Nothing in this subchapter authorizes this State to regulate the organization, formation, existence or internal affairs of a foreign limited liability company authorized to conduct activities in this State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §16 (AMD).

## §1622. STATEMENT OF FOREIGN QUALIFICATION TO CONDUCT ACTIVITIES REQUIRED

**1. Conduct of activities.** A foreign limited liability company may not conduct activities in this State except in compliance with this subchapter and not until its statement of foreign qualification is filed in the records of the Secretary of State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Contents.** A statement of foreign qualification must include:

A. The name of the foreign limited liability company and, if the name does not comply with section 1508, the fictitious name adopted pursuant to section 1624, subsection 1; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The name of the state or other jurisdiction under whose law the foreign limited liability company is formed and the date the foreign limited liability company was formed; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The street and mailing address of the foreign limited liability company's principal office; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. The information required by Title 5, section 105, subsection 1; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. A statement that the foreign limited liability company is a foreign limited liability company as defined in section 1502, subsection 11; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

F. The nature of the business or purposes to be conducted or promoted in this State; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

G. The name and business, residence and mailing address of each of its managers, if any; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

H. A certificate of existence or such other document that the Secretary of State determines to be suitable for purposes of proving the valid existence of the foreign limited liability company under the law of the State or other jurisdiction referenced in paragraph B, as long as the certificate or other document was issued not more than 90 days before the delivery of the statement to the office of the Secretary of State; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]



I. The date the foreign limited liability company commenced or expects to commence conducting activities in this State; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

J. If the foreign limited liability company is governed by an agreement that establishes or provides for the establishment of designated series having separate rights, powers or duties with respect to specified property or obligations of the foreign limited liability company or profits and losses associated with specified property or obligations, a statement to that effect. In addition, the statement must declare whether the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally or any other series thereof, and whether any of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the foreign limited liability company generally or any other series thereof are enforceable against the assets of such series. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**3. Statement of change.** Upon any change in circumstances that makes any statement contained in its filed statement of foreign qualification no longer true, a foreign limited liability company authorized to conduct activities in this State shall promptly deliver to the office of the Secretary of State, for filing, an appropriate statement of change so that its statement of foreign qualification is in all respects true.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**4. Period to conduct activities.** A foreign limited liability company is authorized to conduct activities in this State from the effective date of its statement of foreign qualification until the earlier of the effective date of its statement of foreign qualification cancellation and the effective date of the Secretary of State's revocation of the statement of foreign qualification in accordance with section 1625.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1623. ACTIONS NOT CONSTITUTING TRANSACTING BUSINESS OR CONDUCTING ACTIVITIES

**1. Actions.** A foreign limited liability company may not be considered to be conducting activities in this State within the meaning of this subchapter by reason of carrying on in this State any one or more of the following actions:

A. Maintaining, defending or settling in its own behalf any proceeding or dispute; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Holding meetings or carrying on any other activities concerning its internal affairs; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Maintaining accounts in financial institutions; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Maintaining offices or agencies for the transfer, exchange and registration of the foreign limited liability company's own securities or interests or maintaining trustees or depositories with respect to those securities or interests; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. Selling through independent contractors; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

F. Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this State before they become contracts; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

G. Creating, as borrower or lender, or acquiring indebtedness, mortgages or security interests in real or personal property; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

H. Securing or collecting debts in its own behalf or enforcing mortgages or other security interests in real or personal property securing such debts and holding, protecting and maintaining property so acquired; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

I. Owning, without more, real or personal property; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

J. Conducting an isolated transaction that is completed within 30 days and that is not one in the course of similar or repeated transactions of a like nature; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

K. Conducting activities in interstate commerce. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Status.** A foreign limited liability company may not be considered to be conducting activities in this State solely because it:

A. Owns a controlling interest in an organization that is conducting activities in this State; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Is a limited partner of a limited partnership or foreign limited partnership that is conducting activities in this State; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Is a member of a limited liability company or foreign limited liability company that is conducting activities in this State. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Service of process; taxation; regulation.** This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation or regulation under laws of this State other than this chapter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Jurisdiction; process, notice or demand.** Nothing in this section limits or affects the right to subject a foreign limited liability company that does not, or is not required to, have authority to conduct activities in this State to the jurisdiction of the courts of this State or to serve upon any foreign limited liability company any process, notice or demand required or permitted by law to be served upon a foreign limited liability company pursuant to any other provision of law or pursuant to the applicable rules of civil procedure.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1624. NONCOMPLYING NAME OF FOREIGN LIMITED LIABILITY COMPANY

**1. Fictitious name.** A foreign limited liability company whose name does not comply with section 1508 may not file a statement of foreign qualification until it adopts, for the purpose of conducting activities in this State, a fictitious name that complies with section 1508.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Name change.** If a foreign limited liability company to which a statement of foreign qualification has been filed changes its name to one that does not comply with section 1508, it may not thereafter conduct activities in this State until it complies with subsection 1 by filing an amended statement of foreign qualification.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1625. GROUNDS FOR REVOCATION OF STATEMENT OF FOREIGN QUALIFICATION

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 1626 to revoke a statement of foreign qualification if: [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Nonpayment of fees or penalties.** The foreign limited liability company does not pay when due any fees or penalties imposed by this chapter or other law;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Failure to file annual report.** The foreign limited liability company does not deliver its annual report to the Secretary of State as required by section 1665;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Failure to pay late filing penalty.** The foreign limited liability company does not pay the annual report late filing penalty as required by section 1680;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Failure to maintain registered agent.** The foreign limited liability company is without a registered agent in this State as required by Title 5, section 105, subsection 1;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Failure to notify of change of registered agent or address.** The foreign limited liability company does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or fails to appoint a replacement registered agent after its registered agent has resigned under Title 5, section 111;

[ 2011, c. 113, Pt. A, §17 (AMD) .]

**6. Filing of false information.** A member, manager or agent of the foreign limited liability company signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the Secretary of State for filing;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**7. Amended application.** The foreign limited liability company fails to file with the Secretary of State an amended application for authority required by section 1622, subsection 3; or

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**8. Authenticated certificate of cancellation or merger.** The Secretary of State receives a duly authenticated certificate from the secretary of state or other official having custody of limited liability company records in the state or other jurisdiction under whose law the foreign limited liability company is formed stating that the foreign limited liability company has been cancelled or has disappeared as the result of a merger.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §17 (AMD).

## §1626. PROCEDURE FOR AND EFFECT OF REVOCATION

**1. Notice of determination.** If the Secretary of State determines that one or more grounds exist under section 1625 for the revocation of a statement of foreign qualification, the Secretary of State shall serve the foreign limited liability company with a written notice of the Secretary of State's determination as required by subsection 7.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Revocation.** The statement of foreign qualification is revoked if the Secretary of State determines that the foreign limited liability company has failed to correct the ground or grounds for revocation within 60 days after the notice under subsection 1 was issued. The Secretary of State shall send notice to the foreign limited liability company as required by subsection 7 that recites the ground or grounds for revocation and the effective date of revocation.

[ 2011, c. 113, Pt. A, §18 (AMD) .]

**3. Authority to transact business ceases.** The authority of a foreign limited liability company to transact business in this State ceases on the date of revocation of its authority.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Secretary of State appointed as agent for service of process.** The Secretary of State's revocation of a statement of foreign qualification appoints the Secretary of State as the foreign limited liability company's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign limited liability company was authorized to transact business in this State. Service of process on the Secretary of State under this subsection is service on the foreign limited liability company. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability company at its

principal office shown in its most recent annual report or in any subsequent communication received from the foreign limited liability company stating the current mailing address of its principal office or, if no other address is on file, in its statement of foreign qualification.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Registered agent; not terminated.** Revocation of a statement of foreign qualification in this State does not terminate the authority of the registered agent of the foreign limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. Authorization after revocation.** A foreign limited liability company whose statement of foreign qualification in this State has been revoked under this section and that wishes to transact business again in this State must be authorized as provided in this chapter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**7. Delivery of notice.** The Secretary of State shall send notice of the determination under subsection 1 by regular mail and the service upon the foreign limited liability company is perfected 5 days after the Secretary of State deposits the notice of the determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent in this State and the registered or principal office, wherever located, on file for the foreign limited liability company.

[ 2011, c. 420, Pt. B, §2 (AMD); 2011, c. 420, Pt. B, §4 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §18 (AMD). 2011, c. 420, Pt. B, §2 (AMD). 2011, c. 420, Pt. B, §4 (AFF).

## §1627. APPEAL FROM REVOCATION

**1. Petition to appeal revocation.** A foreign limited liability company may appeal the Secretary of State's revocation of its statement of foreign qualification to the Kennebec County Superior Court within 30 days after the notice of revocation. The foreign limited liability company may appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its statement of foreign qualification and the Secretary of State's notice of revocation.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Court order.** The court may summarily order the Secretary of State to reinstate the statement of foreign qualification or may take any other action the court considers appropriate.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Appeal of court's decision.** The court's final decision may be appealed as in other civil proceedings.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1628. STATEMENT OF CANCELLATION OF FOREIGN QUALIFICATION

**1. Statement of cancellation.** A foreign limited liability company that has filed a statement of foreign qualification with the Secretary of State may cancel its statement of foreign qualification by filing a statement of cancellation of foreign qualification with the Secretary of State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Contents.** A statement of cancellation of foreign qualification must set forth:

A. The name of the foreign limited liability company, any fictitious name adopted for use in this State, the name of the jurisdiction under whose law the foreign limited liability company is organized and the date of organization in the foreign limited liability company's jurisdiction of organization; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

B. The street and mailing address of the foreign limited liability company's principal office; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

C. The information required by Title 5, section 105, subsection 1 or, if a registered agent is no longer to be maintained, a statement that the foreign limited liability company will not maintain a registered agent, and the mailing address to which service of process may be mailed pursuant to section 1662; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

D. That the foreign limited liability company will no longer conduct business in this State and that it relinquishes its authority to conduct business in this State; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

E. That the foreign limited liability company is cancelling its statement of foreign qualification; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

F. That any statement of adopting for use any assumed name with respect to the foreign limited liability company is withdrawn upon the effective date of the statement of cancellation of foreign qualification. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Cancellation effective.** The statement of cancellation of foreign qualification is effective upon filing by the Secretary of State, whereupon the statement of foreign qualification is cancelled and the foreign limited liability company is without authority to conduct activities in this State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Relieved of annual report or filing fee.** If a foreign limited liability company causes a statement of cancellation of foreign qualification to be delivered to the Secretary of State for filing before the date on which an annual report is due under section 1665, the foreign limited liability company is relieved of its obligation to file its annual report or pay the filing fee.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1629. EFFECT OF FAILURE TO HAVE STATEMENT OF FOREIGN QUALIFICATION

**1. Conducting activities; maintaining proceeding.** A foreign limited liability company conducting activities in this State, or anyone on its behalf, may not maintain a proceeding in any court in this State for the collection of its debts unless an effective statement of foreign qualification for the foreign limited liability company is in the records of the office of the Secretary of State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Stay proceeding.** A court may stay a proceeding commenced by a foreign limited liability company until it determines whether the foreign limited liability company should have a statement of foreign qualification on file with the office of the Secretary of State. If the court determines that the foreign limited liability company should have a statement of foreign qualification on file with the office of the Secretary of State, the court may further stay the proceeding until there is an effective statement of foreign qualification on file with the office of the Secretary of State with respect to the foreign limited liability company. If a court determines that a foreign limited liability company is required to have a statement of foreign qualification on file with the office of the Secretary of State, and the foreign limited liability company subsequently delivers for filing to the office of the Secretary of State a statement of foreign qualification, a proceeding in any court in this State to which the foreign limited liability company is a party may not, after the effective date of the statement of foreign qualification, be dismissed by reason of the foreign limited liability company's prior noncompliance with section 1622.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Civil penalty.** A foreign limited liability company is liable for a civil penalty of \$500 for each year, or portion thereof, it transacts business in this State without first complying with the requirements of section 1622.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Recovery of civil penalty.** The civil penalty set forth in subsection 3 may be recovered in an action brought by the Attorney General. Upon a finding by the court that a foreign limited liability company has conducted activities in this State in violation of this subchapter, the court may issue, in addition to or in lieu of the imposition of a civil penalty, an injunction restraining the further conducting of activities by the foreign limited liability company and its agents and the further exercise of any rights and privileges of a foreign limited liability company in this State until all amounts plus any interest and court costs that the court may assess have been paid and until the foreign limited liability company has otherwise complied with this subchapter.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Validity of acts; defending proceeding.** Notwithstanding subsections 1 and 2, the conducting of activities in this State by a foreign limited liability company without having a statement of foreign qualification on file in the records of the office of the Secretary of State does not impair the validity of the acts of the foreign limited liability company or prevent the foreign limited liability company from defending any proceeding in this State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. Debts; obligations; liabilities.** A member or agent of a foreign limited liability company is not liable for the debts, obligations or other liabilities of the foreign limited liability company solely because the foreign limited liability company conducted activities in this State without a statement of foreign qualification being on file with the office of the Secretary of State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## Subchapter 11: ACTIONS BY MEMBERS

### §1631. DIRECT ACTION BY MEMBER

**1. Direct action against member.** Subject to subsection 2, a member may maintain a direct action against another member, a manager or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the limited liability company agreement or this chapter or arising independently of the membership relationship.

[ 2011, c. 113, Pt. A, §19 (AMD) .]

**2. Actual or threatened injury.** A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §19 (AMD).

### §1632. DERIVATIVE ACTION

A member may maintain a derivative action to enforce a right of a limited liability company if:

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Demand.** The member first makes a demand on the limited liability company to take suitable action, and the limited liability company does not take suitable action within a reasonable time; or

[ 2011, c. 113, Pt. A, §20 (AMD) .]

**2. Futility of demand.** A demand under subsection 1 would be futile.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §20 (AMD).



## §1633. PROPER PLAINTIFF

**1. Plaintiff must be a member.** Except as otherwise provided in subsection 2, a derivative action under section 1632 may be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Death of plaintiff.** If the sole plaintiff in a derivative action dies while the action is pending, the court may permit another member of the limited liability company to be substituted as plaintiff.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1634. PLEADING

In a derivative action under section 1632 the complaint must state with particularity: [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Demand and response.** The date and content of the plaintiff's demand and the response to the demand by the limited liability company; or

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Futility of demand.** If a demand has not been made, the reasons a demand under section 1632, subsection 1 would be futile.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1635. SPECIAL LITIGATION COMMITTEE

**1. Stay of court proceeding upon appointment of special litigation committee.** If a limited liability company is named as or made a party in a derivative proceeding, the limited liability company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the limited liability company. If the limited liability company appoints a special litigation committee, on motion by the special litigation committee made in the name of the limited liability company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the special litigation committee to make its investigation. This subsection does not prevent the court from enforcing a person's right to information under section 1558 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Composition of special litigation committee.** A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Appointment of special litigation committee.** A special litigation committee may be appointed:

A. By the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. If all members are named as defendants or plaintiffs in the proceeding, by a majority of the members named as defendants. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Determination by special litigation committee.** After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

A. Continue under the control of the plaintiff; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Continue under the control of the special litigation committee; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Be settled on terms approved by the special litigation committee; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Be dismissed. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Filing of determination with court.** After making a determination under subsection 4, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The court shall determine whether the members of the special litigation committee were disinterested and independent and whether the special litigation committee conducted its investigation and made its recommendation in good faith, independently and with reasonable care, with the special litigation committee having the burden of proof. If the court finds that the members of the special litigation committee were disinterested and independent and that the special litigation committee acted in good faith, independently and with reasonable care, the court shall enforce the determination of the special litigation committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection 1 and allow the action to proceed under the direction of the plaintiff.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1636. PROCEEDS AND EXPENSES

**1. Proceeds.** Except as otherwise provided in subsection 2:

A. Any proceeds or other benefits of a derivative action under section 1632, whether by judgment, compromise or settlement, belong to the limited liability company and not to the plaintiff; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Expenses.** If a derivative action under section 1632 is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1637. CLOSELY HELD LIMITED LIABILITY COMPANY

**1. Definition.** As used in this section, "closely held limited liability company" means a limited liability company that has:

A. Fewer than 35 members; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. No transferable interests listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national securities association. [2011, c. 113, Pt. A, §21 (AMD).]

[ 2011, c. 113, Pt. A, §21 (AMD) .]

**2. Limitation on derivative actions.** Except to the extent ordered by the court in an action under subsection 3, paragraph A, sections 1632 to 1636 do not apply to a closely held limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Exception to limitation on derivative actions.** If justice requires:

A. A derivative action commenced by a member of a closely held limited liability company may be treated by a court as a direct action brought by the member for the member's own benefit; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Recovery in a direct or derivative action by a member of a closely held limited liability company may be paid directly to the plaintiff or to the closely held limited liability company if necessary to protect the interests of creditors or of other members. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §21 (AMD).

## Subchapter 12: MERGER AND CONVERSION

### §1641. MERGER

**1. Merger requirements.** A limited liability company may merge with one or more other constituent organizations pursuant to this section, sections 1642 to 1644 and a plan of merger, if:

A. The governing statute of each of the other organizations authorizes the merger; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Each of the other organizations complies with its governing statute in effecting the merger. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Plan of merger.** A plan of merger must be in a record and must include:

A. The name, current jurisdiction and form of each constituent organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The name, jurisdiction and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization and other consideration as allowed in subsection 3; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. If the surviving organization is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record or a statement that the organizing documents remain unchanged. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Exchange or conversion.** In connection with a merger, rights or securities of or interests in the constituent organization may be exchanged for or converted into cash, property or rights or securities of or interests in the surviving organization or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property or rights or securities of or interests in another organization or may be cancelled.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1642. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED LIABILITY COMPANY

**1. Consent by constituent members.** A plan of merger must be consented to by all the members of a constituent limited liability company.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Amend plan; abandon merger.** After the plan of merger is approved, and at any time before a statement of merger is delivered to the office of the Secretary of State for filing under section 1643, a constituent limited liability company may amend the plan or abandon the merger:

A. As provided in the plan; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Except as otherwise prohibited in the plan, with the same consent as was required to approve the plan. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1643. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE

**1. Signature on statement of merger.** After each constituent organization has approved the plan of merger, a statement of merger must be signed on behalf of:

A. Each constituent limited liability company, as provided in section 1676, subsection 1; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Each other constituent organization, as provided in its governing statute. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Contents.** A statement of merger under this section must include:

A. The name and form of each constituent organization and the jurisdiction of its governing statute and the date of organization of each constituent organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The name and form of the surviving organization, the jurisdiction of its governing statute, the date of its organization, the address of its principal office and, if the surviving organization is created by the merger, a statement to that effect; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The date the merger is effective under the governing statute of the surviving organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. If the surviving organization is to be created by the merger:

(1) If the surviving organization will be a limited liability company, the limited liability company's certificate of formation; or

(2) If the surviving organization will be an organization other than a limited liability company, the organizational document that creates the organization that is in a public record; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. If the surviving organization exists before the merger:

(1) Any amendments provided for in the plan of merger for the organizational document that created the surviving organization that are in a public record; or

(2) A statement that the organizational documents remain unchanged; [2011, c. 113, Pt. A, §22 (RPR).]

F. A statement as to each constituent organization that the merger was approved as required by the constituent organization's governing statute and as required by the organizational documents of each constituent organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

G. If the surviving organization is a foreign organization not authorized to conduct business in this State, an acknowledgment that it may be served with process in this State by certified mail and the address of its principal office for the purposes of section 1644, subsection 2; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

H. Any additional information required by the governing statute of any constituent organization.  
[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2011, c. 113, Pt. A, §22 (AMD) .]

**3. Filing of statement of merger.** The surviving organization shall deliver the statement of merger signed by each constituent organization for filing with the office of the Secretary of State.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Effective date of merger.** A merger becomes effective under this subchapter:

A. If the surviving organization is a limited liability company, upon the later of:

(1) Compliance with subsection 3; and

(2) As specified in the statement of merger; or [2009, c. 629, Pt. A, §2 (NEW);  
2009, c. 629, Pt. A, §3 (AFF).]

B. If the surviving organization is not a limited liability company, as provided by the governing statute of the surviving organization. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §22 (AMD).

## §1644. EFFECT OF MERGER

**1. Effect of merger.** When a merger becomes effective:

A. The surviving organization continues or comes into existence; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Each constituent organization that merges into the surviving organization ceases to exist as a separate entity; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. All property owned by each constituent organization that ceases to exist vests in the surviving organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. All debts, obligations or other liabilities of each constituent organization that ceases to exist continue as debts, obligations or other liabilities of the surviving organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred, and the surviving organization may be, but need not be, substituted in the action; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

F. Except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of each constituent organization that ceases to exist vest in the surviving organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

G. Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

H. Except as otherwise agreed, if a constituent limited liability company ceases to exist, the merger does not dissolve the limited liability company for the purposes of subchapter 8; [2011, c. 113, Pt. A, §23 (AMD).]

I. If the surviving organization is created by the merger:

(1) If the surviving organization is a limited liability company, the certificate of formation becomes effective; or

(2) If the surviving organization is an organization other than a limited liability company, the organizational document that creates the organization becomes effective; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

J. If the surviving organization existed before the merger, any amendments provided for in the statement of merger for the organizational document that created the surviving organization become effective. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2011, c. 113, Pt. A, §23 (AMD) .]

**2. Jurisdiction.** A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any debt, obligation or other liability owed by a constituent organization if before the merger the constituent organization was subject to suit in this State on the debt, obligation or other liability. Service of process on a surviving organization that is a foreign organization and not authorized to conduct business in this State for the purposes of enforcing a debt, obligation or other liability may be made in the same manner and has the same consequences as provided in Title 5, chapter 6-A as if the surviving organization were a foreign limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §23 (AMD).

## §1645. CONVERSION

**1. Conversion.** An organization other than a limited liability company, including but not limited to a foreign organization, may convert to a limited liability company, and a limited liability company may convert to an organization other than a limited liability company pursuant to this section, sections 1646 to 1648 and a plan of conversion, if:

A. The governing statute of the organization that is not a limited liability company authorizes the conversion; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The law of the jurisdiction governing the converting organization and the converted organization does not prohibit the conversion; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The converting organization and the converted organization each complies with its respective governing statute in effecting the conversion. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Plan of conversion.** A plan of conversion must be in a record and must include:

A. The name, date of organization, jurisdiction and form of the converting organization before conversion; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The name, jurisdiction and form of the converted organization after conversion; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization and other consideration as allowed in subsection 3; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. The organizational documents of the converted organization that are, or are proposed to be, in a record. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**3. Exchange or conversion.** In connection with a conversion, rights or securities of or interests in the converting organization may be exchanged for or converted into cash, property or rights or securities of or interests in the converted organization or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property or rights or securities of or interests in another organization or may be cancelled.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1646. ACTION ON PLAN OF CONVERSION BY CONVERTING LIMITED LIABILITY COMPANY

**1. Consent.** A plan of conversion must be consented to by all the members of a converting limited liability company.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**2. Amend or abandon.** After a conversion is approved, and at any time before the statement of conversion is delivered to the office of the Secretary of State for filing under section 1647, a converting limited liability company may amend the plan or abandon the conversion:

A. As provided in the plan; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Except as otherwise prohibited in the plan, by the same consent as was required to approve the plan. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1647. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE DATE

**1. After conversion approved.** After a plan of conversion is approved:

A. A converting limited liability company shall deliver to the office of the Secretary of State for filing a statement of conversion, which must be signed as provided in section 1676, subsection 1 and must include:

(1) A statement that the converting limited liability company has been converted into the converted organization;



- (2) The name and form of the converted organization, the jurisdiction of its governing statute, the date of its organization and the address of its principal office;
- (3) The date the conversion is effective under the governing statute of the converted organization;
- (4) A statement that the conversion was approved as required by this chapter and the limited liability company agreement;
- (5) A statement that the conversion was approved as required by the governing statute of the converted organization; and
- (6) If the converted organization is a foreign organization not authorized to conduct business in this State, an acknowledgment that it may be served with process in this State by certified mail and the address of its principal office for the purposes of section 1648, subsection 3; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

B. If the converted organization is a limited liability company, the converting organization shall deliver to the office of the Secretary of State for filing a certificate of formation, which must include, in addition to the information required by section 1531, subsection 1:

- (1) A statement that the converted organization was converted from the converting organization;
- (2) The name and form of the converting organization, the jurisdiction of the converting organization's governing statute and the date of its organization; and
- (3) A statement that the conversion was approved as required by the governing statute of the converting organization. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**2. Effective date.** A conversion becomes effective:

A. If the converted organization is a limited liability company, when the certificate of formation takes effect; and [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

B. If the converted organization is not a limited liability company, as provided by the governing statute of the converted organization. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**SECTION HISTORY**

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## **§1648. EFFECT OF CONVERSION**

**1. Same organization.** An organization that has been converted pursuant to this subchapter is for all purposes the same entity that existed before the conversion.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**2. Effect of conversion.** When a conversion takes effect:

A. All property owned by the converting organization remains vested in the converted organization; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

B. All debts, obligations or other liabilities of the converting organization continue as debts, obligations or other liabilities of the converted organization; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

C. An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred, or the converted organization may be, but need not be, substituted in the action; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of the converting organization remain vested in the converted organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

F. Except as otherwise agreed, the converting organization is not required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion may not be deemed to constitute a dissolution of that converting organization. When a converting organization has been converted to a limited liability company pursuant to this subchapter, the limited liability company is deemed to be the same organization as the converting organization, and the conversion constitutes a continuation of the existence of the converting organization in the form of a limited liability company; [2011, c. 113, Pt. A, §24 (AMD).]

G. The rights, privileges, powers and interests in property of the converting organization, as well as the debts, liabilities and duties of the converting organization, are not deemed, as a consequence of the conversion, to have been transferred to the converted organization; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

H. If the converted organization is a limited liability company, the existence of the limited liability company is deemed to have commenced on the date the converting organization commenced its existence in the jurisdiction in which the converting organization was first created, formed, organized, incorporated or otherwise came into being. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2011, c. 113, Pt. A, §24 (AMD) .]

**3. Jurisdiction.** A converted organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce any debt, obligation or other liability for which the converting limited liability company is liable if, before the conversion, the converting limited liability company was subject to suit in this State on the debt, obligation or other liability. Service of process on a converted organization that is a foreign organization and not authorized to conduct business in this State for purposes of enforcing a debt, obligation or other liability under this subsection may be made in the same manner and has the same consequences as provided in Title 5, chapter 6-A as if the converted organization were a foreign limited liability company.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §24 (AMD).

## §1649. RESTRICTIONS ON APPROVAL OF MERGERS AND CONVERSIONS

**1. Written consent.** If a member of a converting or constituent limited liability company will have personal liability with respect to a converted or surviving organization, approval and amendment of a plan of conversion or plan of merger are ineffective without that member's written consent to that plan.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Consent to agreement.** A member does not give the consent required by subsection 1 merely by consenting to a provision of the limited liability company agreement that permits the limited liability company agreement to be amended with the consent of fewer than all the members.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1650. SUBCHAPTER NOT EXCLUSIVE

This subchapter does not preclude an entity from being merged or converted under law other than this chapter. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## Subchapter 13: ADMINISTRATIVE PROVISIONS

### §1661. REGISTERED AGENT FOR LIMITED LIABILITY COMPANY

A limited liability company must have and continuously maintain a registered agent in this State as defined by Title 5, section 102, subsection 27. [2011, c. 113, Pt. A, §25 (AMD).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §25 (AMD).

### §1662. SERVICE OF PROCESS

Service of process, notice or demand required or permitted by law on a limited liability company is governed by Title 5, section 113. [2011, c. 113, Pt. A, §26 (AMD).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §26 (AMD).

### §1663. PRINCIPAL OFFICE

The principal office of a limited liability company or foreign limited liability company need not be located in this State. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

### §1664. CERTIFICATE OF EXISTENCE; CERTIFICATE OF QUALIFICATION; CERTIFICATE OF FACT

**1. Certificate of existence; certificate of qualification.** The Secretary of State, upon request and payment of the requisite fee, shall furnish to any person a certificate of existence for a limited liability company or certificate of qualification for a foreign limited liability company if the records filed in the office of the Secretary of State show that the limited liability company has been formed under the laws of this State or authorized to transact business in this State. A certificate of existence or certificate of qualification must state:

A. The limited liability company's name; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. That, if a limited liability company, the limited liability company is duly formed under the laws of this State and the date of formation; [2011, c. 113, Pt. B, §7 (AMD).]

C. That, if a foreign limited liability company, the foreign limited liability company is authorized to transact business in this State, the date on which the limited liability company was authorized to transact business in this State and its jurisdiction of organization; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. That all fees and penalties owed to the State have been paid in full, if:

(1) Payment is reflected in the records of the office of the Secretary of State; and

(2) Nonpayment affects the existence or authorization of the limited liability company or foreign limited liability company; [2011, c. 113, Pt. B, §7 (AMD).]

E. That the limited liability company's most recent annual report required by section 1519 has been filed by the Secretary of State; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

F. Whether the limited liability company has delivered to the office of the Secretary of State for filing a certificate of cancellation by a limited liability company or a statement of cancellation of foreign qualification; and [2011, c. 113, Pt. B, §7 (AMD).]

G. Other facts of record in the office of the Secretary of State that are specified by the person requesting the certificate. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2011, c. 113, Pt. B, §7 (AMD) .]

**2. Conclusive evidence.** Subject to any condition stated in the certificate, a certificate of existence or certificate of qualification issued by the Secretary of State is conclusive evidence that the limited liability company is in existence or the foreign limited liability company is authorized to transact business or conduct activities in this State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Certificate of fact.** In addition to the certificate authorized under subsection 1, the Secretary of State may issue a certificate of fact attesting to any fact of record in the office of the Secretary of State that may be requested.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §7 (AMD).

## §1665. ANNUAL REPORT FOR SECRETARY OF STATE

**1. Annual report.** Each year, each limited liability company or each foreign limited liability company authorized to conduct business in this State shall deliver to the office of the Secretary of State for filing an annual report setting forth:

A. The name of the limited liability company or the foreign limited liability company; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The information required by Title 5, section 105, subsection 1; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The address of the limited liability company's or foreign limited liability company's principal office; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. A brief statement of the character of the business in which the limited liability company is actually engaged in this State; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. The name and address of at least one person who is a member, manager or other authorized person of the limited liability company. [2011, c. 113, Pt. B, §8 (AMD).]

[ 2011, c. 113, Pt. B, §8 (AMD) .]

**2. Current information.** Information in an annual report under this section must be current as of the date the report is delivered to the office of the Secretary of State for filing.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. First annual report; subsequent reports.** The first annual report under this section must be delivered to the office of the Secretary of State between January 1st and June 1st of the year following the calendar year in which a limited liability company was formed or a foreign limited liability company delivered its statement of foreign qualification to the office of the Secretary of State for filing. For subsequent years, annual reports must be delivered to the office of the Secretary of State between January 1st and June 1st of the following calendar year.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Filing.** The report, together with the filing fee required by this chapter, must be delivered for filing to the office of the Secretary of State, who shall file the report if the Secretary of State finds that it conforms to the requirements of subsection 1. If the Secretary of State finds that the report does not conform to the requirements of subsection 1, the Secretary of State shall promptly mail or otherwise return the report to the reporting limited liability company for any necessary correction. If the report is corrected to contain the information required in subsection 1 and delivered to the office of the Secretary of State within 30 days after the effective date of the notice, it is timely delivered. Proof to the satisfaction of the Secretary of State that, prior to the date that penalties become effective for late delivery of an annual report as established by the Secretary of State by rule, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid or was delivered in a medium authorized by the Secretary of State is deemed in compliance with this requirement. The penalties prescribed by this chapter for failure to file the report by the date required by rule by the Secretary of State do not apply if the report is corrected to conform to the requirements of this chapter and returned to the Secretary of State within 30 days from the date on which the report was mailed or otherwise returned to the limited liability company by the Secretary of State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Certificate of excuse.** The Secretary of State, upon application by a limited liability company and satisfactory proof that it has ceased to transact business and that it is not indebted to this State for failure to file an annual report and to pay any fees or penalties accrued, shall file a certificate of the fact and shall give a duplicate certificate to the limited liability company, after which the limited liability company is excused from filing annual reports with the office of the Secretary of State, as long as the limited liability company in fact transacts no business. The name of a limited liability company remains in the office of the Secretary of State's records of entity names and is protected for a period of 5 years following excuse.

[ 2011, c. 113, Pt. B, §9 (AMD) .]

**6. Resumption of business.** A limited liability company that has been excused from filing annual reports pursuant to subsection 5 may elect to resume transacting business. A certificate executed and filed as provided in section 1673 setting forth that an election was made to resume the transaction of business

authorizes the limited liability company to resume transaction of business. After that certificate is filed, the limited liability company is required to file annual reports beginning with the next reporting deadline following resumption.

[ 2011, c. 113, Pt. B, §10 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §§8-10 (AMD).

## §1666. AMENDED ANNUAL REPORT OF LIMITED LIABILITY COMPANY OR FOREIGN LIMITED LIABILITY COMPANY

**1. Amended annual report.** If the information contained in an annual report filed under section 1519 has changed, a limited liability company may, if it determines it to be necessary, deliver to the office of the Secretary of State for filing an amended annual report to change the information on file.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Contents.** The amended annual report under subsection 1 must set forth:

A. The name of the limited liability company or foreign limited liability company and the jurisdiction of its organization; [2011, c. 113, Pt. B, §11 (AMD).]

B. The date on which the original annual report was filed; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The information that has changed and the date on which it changed. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2011, c. 113, Pt. B, §11 (AMD) .]

**3. Filing date.** An amended annual report under subsection 1 may be filed by the limited liability company after the date of the original filing and until December 31st of that filing year.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §11 (AMD).

## §1667. FAILURE TO FILE ANNUAL REPORT; INCORRECT REPORT; PENALTIES

**1. Failure to file; penalty.** A limited liability company or foreign limited liability company that is required to deliver an annual report for filing as provided by section 1665 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the late filing penalty set forth in section 1680, subsection 10 as long as the report is received by the Secretary of State prior to revocation or administrative dissolution. Upon a limited liability company's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 5 and Title 5, chapter 375, shall revoke a foreign limited liability company's authority to do business in this State and administratively dissolve a limited liability company. The Secretary of State shall use the procedures set forth in section 1592 to administratively dissolve a limited liability company and

the procedures set forth in section 1626 to revoke a foreign limited liability company's authority to transact business in this State. A limited liability company that has been administratively dissolved under section 1592 must follow the requirements set forth in section 1603 to reinstate.

[ 2011, c. 113, Pt. B, §12 (AMD) .]

**2. Return for correction.** If the Secretary of State finds that an annual report delivered for filing does not conform with the requirements of section 1665, the report must be returned for correction.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Excused from liability.** If the annual report of a limited liability company or foreign limited liability company is not delivered for filing within the time specified in section 1665, the limited liability company is excused from the liability provided in this section and from any other penalty for failure to file timely the report if it establishes to the satisfaction of the Secretary of State that failure to file was the result of excusable neglect and it furnishes the Secretary of State a copy of the report within 30 days after it learns that the Secretary of State failed to receive the original report.

[ 2011, c. 113, Pt. B, §12 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §12 (AMD).

## §1668. POWERS OF THE SECRETARY OF STATE; RULES

The Secretary of State has the power reasonably necessary to perform the duties required of the Secretary of State by this chapter, including the power to adopt rules not inconsistent with this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1669. EXPEDITED SERVICE

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. Fees collected for expedited service must be deposited into a fund for use by the Secretary of State in providing an improved filing service. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1670. ACCESS TO DATABASE

The Secretary of State may provide public access to the database through a medium approved by the Secretary of State, through public terminals and through electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1671. PUBLICATIONS

**1. Fee for publications.** The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Use of fees.** Fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State to replace and update publications offered in accordance with this chapter and to fund new publications.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1672. FILING DUTY OF SECRETARY OF STATE

**1. Duty to file.** If a document delivered to the office of the Secretary of State for filing pursuant to this chapter satisfies the requirements of this chapter, the Secretary of State shall file the document.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Recording as filed; acknowledgment.** The Secretary of State files a document pursuant to subsection 1 by recording it as filed on the date of receipt. After filing a document, the Secretary of State shall deliver to the limited liability company or foreign limited liability company or its representative a copy of the document with an acknowledgement of the date of filing. If the person delivering the document for filing so requests, the acknowledgment must further include the hour and minute of filing.

[ 2011, c. 113, Pt. B, §13 (AMD) .]

**3. Refusal to file; written explanation.** If the Secretary of State refuses to file a document, the Secretary of State shall return it to the limited liability company or foreign limited liability company or its representative within 5 days after the document was delivered, together with a brief written explanation of the reason for the refusal.

[ 2011, c. 113, Pt. B, §14 (AMD) .]

**4. Ministerial.** The Secretary of State's duty to file a document under this chapter is ministerial, and the filing or refusal to file a document does not:

A. Affect the validity or invalidity of the document in whole or in part; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Relate to the correctness or incorrectness of information contained in the document; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]



C. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §§13, 14 (AMD).

## §1673. REQUIREMENTS FOR DOCUMENTS FILED WITH THE SECRETARY OF STATE

Each document authorized or required to be delivered to the Secretary of State for filing under this chapter must satisfy the following requirements and the requirements of any other section of this chapter. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**1. Information.** The document must contain all information required by the laws of this State to be contained in the document but, unless otherwise provided by law, may not contain other information.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Form; format.** The document must be legibly typewritten or printed in ink or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Prescribed form.** The Secretary of State may prescribe and furnish on request forms for any documents required or permitted to be filed by this chapter. If the Secretary of State so requires, use of these forms is mandatory.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. English language.** A person's name set forth in the document need not be in English if expressed in English letters or Arabic or Roman numerals. Documents of a foreign person need not be in English if accompanied by a reasonably authenticated English translation.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Delivery.** The document must be delivered to office of the Secretary of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. Fee.** At the time of delivery of the document, the correct filing fee and any reinstatement fee or penalty must be paid or provision for payment made in a manner permitted by the Secretary of State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1674. EFFECTIVE TIME, DELAYED EFFECTIVE DATE

Except as otherwise provided in section 1675 and Title 5, section 111, a record delivered to the office of the Secretary of State for filing under this chapter may specify an effective time and a delayed effective date. Subject to section 1675 and Title 5, section 111, a record filed by the Secretary of State is effective: [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

**1. No specified time or delayed effective date.** If the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the Secretary of State's endorsement of the date and time on the record;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**2. Effective time but not delayed date.** If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**3. Delayed effective date but no time.** If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:

A. The specified date; or [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

B. The 90th day after the record is filed; or [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**4. Specified time and delayed effective date.** If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:

A. The specified date; or [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

B. The 90th day after the record is filed. [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1675. CORRECTING FILED RECORD; EFFECTIVE TIME AND DATE

**1. Statement of correction.** A limited liability company or foreign limited liability company may deliver to the office of the Secretary of State for filing a statement of correction to correct a record previously delivered by the limited liability company or foreign limited liability company to the office of the Secretary of State and filed by the Secretary of State if at the time of filing the record contained incorrect information or was defectively signed or if the information subsequently becomes inaccurate.

[ 2011, c. 113, Pt. B, §15 (AMD) . ]

**2. Contents.** A statement of correction under subsection 1 may not state a delayed effective date and must:

A. Describe the record to be corrected, including its filing date, or attach a copy of the record as filed; [ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF). ]

B. Specify the incorrect or inaccurate information and the reason it is incorrect or inaccurate or the manner in which the signing was defective; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Correct the incorrect or inaccurate information or the manner in which the signing was defective. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Effective retroactively; effective when filed.** When filed by the Secretary of State, a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed as to persons that previously relied on the uncorrected record and would be adversely affected by the retroactive effect.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Erroneously filed record.** A statement of correction may be used to render ineffective an erroneously filed record.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §15 (AMD).

## §1676. SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO OFFICE OF THE SECRETARY OF STATE

**1. Record signed.** A record delivered to the office of the Secretary of State for filing pursuant to this chapter must be signed as follows.

A. A limited liability company's initial certificate of formation must be signed by at least one authorized person. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. A record signed on behalf of a limited liability company must be signed by a person authorized by the limited liability company. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. A record filed on behalf of a dissolved limited liability company that has no members must be signed by the person winding up the limited liability company's activities under section 1597, subsection 1 or a person appointed under section 1598, subsection 2 to wind up those activities. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. A statement of denial by a person under section 1543 must be signed by that person. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

E. Any other record must be signed by the person on whose behalf the record is delivered to the office of the Secretary of State. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Agent; attorney-in-fact.** Any record to be filed under this chapter may be signed by an agent, including an attorney-in-fact. Powers of attorney relating to the signing of the record need not be provided to or filed with the office of the Secretary of State.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1677. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER

**1. Petition.** If a person required by this chapter to sign a record or deliver a record to the office of the Secretary of State for filing under this chapter does not do so, any other person that is aggrieved by such failure to sign may petition the Kennebec County Superior Court to order:

A. The person to sign the record; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. The person to deliver the record to the office of the Secretary of State for filing; or [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. The Secretary of State to file the record unsigned. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Party to action.** If a petitioner under subsection 1 is not the limited liability company or foreign limited liability company to whom the record pertains, the petitioner shall make the limited liability company or foreign limited liability company a party to the action. A person aggrieved under subsection 1 may seek the remedies provided in subsection 1 in a separate action against the person required to sign the record or as a part of any other action concerning the limited liability company in which the person required to sign the record is made a party.

[ 2011, c. 691, Pt. A, §32 (AMD) .]

**3. Reasonable expenses.** A court may award reasonable expenses, including reasonable attorney's fees, to the party or parties who prevail, in whole or in part, with respect to any claim made under subsection 1.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. B, §16 (AMD). 2011, c. 691, Pt. A, §32 (AMD).

## §1678. LIABILITY FOR INCORRECT OR INACCURATE INFORMATION IN FILED RECORD

**1. Incorrect or inaccurate information.** If a record delivered to the office of the Secretary of State for filing under this chapter and filed by the Secretary of State contains incorrect or inaccurate information, a person that suffers a loss by reasonable reliance on the information may recover damages for the loss from a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be incorrect or inaccurate at the time the record was signed.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Affirmation that facts are true.**

[ 2011, c. 113, Pt. A, §27 (RP) .]

**3. Unsworn falsification.** The execution of a certificate or articles containing one or more false statements constitutes unsworn falsification under Title 17-A, section 453.

[ 2011, c. 113, Pt. A, §28 (NEW) .]

## SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §§27, 28 (AMD).

**§1679. ADDRESS**

Whenever a provision of this subchapter requires that a document for filing state an address, the document must state: [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**1. Street or rural route.** An actual street address or rural route box number; and

[ 2011, c. 113, Pt. A, §29 (AMD) .]

**2. Mailing address.** A mailing address, if different from the address under subsection 1.

[ 2011, c. 113, Pt. A, §30 (AMD) .]

## SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §§29, 30 (AMD).

**§1680. FILING AND COPYING FEES; PENALTIES**

A document filed under this chapter is not effective until the applicable fee required in this section is paid. The following fees or penalties must be paid to the office of the Secretary of State: [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**1. Reservation.** For filing of an application for reservation of name or a notice of transfer of reservation pursuant to section 1509, a fee of \$20 for each limited liability company affected;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**2. Assumed or fictitious name.** For filing of a statement for use of an assumed name under section 1510, a fee of \$125, and for filing a statement for use of a fictitious name under section 1510, a fee of \$40;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**3. Termination of assumed or fictitious name.** For filing of a termination of an assumed or fictitious name under section 1510, a fee of \$20;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Registered name.** For filing of an application for a registered name of a foreign limited liability company under section 1511, a fee of \$20 per month for the number of months or fraction of a month remaining in the calendar year when first filing. For filing an application to renew the registration of a registered name, a fee of \$200;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Issuing certificate.** For issuing a certificate of existence, certificate of authority or certificate of fact as provided by section 1664, a fee in the amount of \$30;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**6. Annual report.** For filing of an annual report under section 1665, a fee of \$85 for a limited liability company or a fee of \$150 for a foreign limited liability company;

[ 2011, c. 113, Pt. B, §17 (AMD) .]

**7. Application for excuse.** For filing a statement for excuse under section 1665, subsection 5, a fee of \$40;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**8. Certificate of resumption.** For filing a statement of resumption under section 1665, subsection 6, a fee of \$100;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**9. Amended annual report.** For filing of an amended annual report under section 1666, a fee of \$85 for a limited liability company or a fee of \$150 for a foreign limited liability company;

[ 2011, c. 113, Pt. B, §18 (AMD) .]

**10. Late filing penalty.** For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of \$50;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**11. Statement of correction.** For filing of a statement of correction under section 1675, a fee of \$50;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**12. Certificate of cancellation.** For filing a certificate of cancellation under section 1533, a fee of \$75;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**13. Certificate of formation.** For filing of a certificate of formation under section 1531, a fee of \$175;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**14. Amendment or restatement of certificate of formation.** For filing an amended certificate of formation under section 1532, a fee of \$50; and for filing a restatement of certificate of formation under section 1532, subsection 4, a fee of \$80;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**15. Statement of authority; amendment or cancellation.** For filing a statement of authority under section 1542, a fee of \$50; for filing an amended statement of authority under section 1542, subsection 2, a fee of \$50; and for filing a cancellation of a statement of authority under section 1542, subsection 2, a fee of \$50;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**16. Statement of denial.** For filing a statement of denial under section 1543, a fee of \$50;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**17. Reinstatement fee after administrative dissolution.** For failure to file an annual report, a fee of \$150, to a maximum fee of \$600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of \$150; for failure to appoint or maintain a registered agent, a fee of \$150; for failure to notify the Secretary of State that the registered agent or the address of the registered agent has been changed or failure to appoint a replacement registered agent after the registered agent has resigned, a fee of \$150; and for filing false information, a fee of \$150;

[ 2011, c. 113, Pt. A, §31 (AMD) . ]

**18. Certificate of revival after dissolution.** For filing a certificate of revival after dissolution for a limited liability company under section 1604, a fee of \$150;

[ 2011, c. 113, Pt. B, §19 (AMD) . ]

**19. Statement of foreign qualification.** For filing of a statement of foreign qualification under section 1622, a fee of \$250;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**20. Statement of change of foreign qualification.** For filing a statement of change under section 1622, subsection 3, except to change the address of the principal office, a fee of \$90. For filing a statement of change to change the address of the principal office, a fee of \$35;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**21. Statement of cancellation of foreign qualification.** For filing a statement of cancellation of foreign qualification under section 1628, a fee of \$90;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**22. Statement of merger.** For filing a statement of merger under section 1643, a fee of \$150;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**23. Statement of conversion.** For filing a statement of conversion under section 1647 to convert to a business corporation governed by Title 13-C, a fee of \$145; for filing a statement of conversion under section 1647 to convert to a nonprofit corporation governed by Title 13-B, a fee of \$40; for filing a statement of conversion under section 1647 to convert to a limited partnership governed by chapter 19, a fee of \$175; for filing a statement of conversion under section 1647 to convert to a limited liability partnership governed by chapter 15, a fee of \$175; and for filing a statement of conversion under section 1647 to convert to a partnership governed by chapter 17, a fee of \$175;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) . ]

**24. All other filings.** For filing of a certificate, statement, affidavit, agreement or any other paper provided for by this chapter, for which a fee is not specifically prescribed, a fee of \$35;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**25. Copies of filed documents.** For all copies, whether certified or not, a fee of \$2 per page. For purposes of this chapter, a filed document is any filing provided for by this chapter and filed by the Secretary of State;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**26. Certified copies.** For certification of copies of filed documents under this chapter, a fee of \$5 for each certification in addition to any fee due under subsection 25;

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**27. Preclearance of document.** For the preclearance of a document for filing, a fee of \$100; and

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**28. Service of process on Secretary of State as agent.** For accepting service of process under section 1626, subsection 4, a fee of \$20.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

All fees collected as provided by this chapter must be remitted to the Treasurer of State for the use of the State with the exception of those fees established by rule and collected for expedited service. Fees for expedited service are deposited into a fund for use by the Secretary of State in providing an improved filing service. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

RR 2009, c. 2, §86 (COR). 2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §31 (AMD). 2011, c. 113, Pt. B, §§17-19 (AMD).

### Subchapter 14: MISCELLANEOUS PROVISIONS

#### §1691. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b). [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

#### §1692. SAVINGS CLAUSE

**1. Repeal does not affect.** Except as provided in subsection 2, the repeal of former chapter 13 does not affect:



A. The operation of former chapter 13 or any action taken under it before its repeal; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under former chapter 13 before its repeal; [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

C. Any violation of former chapter 13, or any penalty, forfeiture or punishment incurred because of the violation, before its repeal; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

D. Any proceeding, reorganization or dissolution commenced under former chapter 13 before its repeal, and the proceeding, reorganization or dissolution may be completed in accordance with former chapter 13 as if it had not been repealed. [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**2. Penalty or punishment.** If a penalty or punishment imposed for violation of former chapter 13 is reduced by this chapter, the penalty or punishment if not already imposed must be imposed in accordance with this chapter.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF).

## §1693. APPLICATION TO EXISTING RELATIONSHIPS

**1. Existing on effective date.** This chapter applies to all limited liability companies in existence on July 1, 2011, except as provided in subsections 2 and 3.

[2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

**2. Formed before effective date.** For purposes of applying this chapter to a limited liability company formed before July 1, 2011:

A. The limited liability company's articles of organization are deemed to be the limited liability company's certificate of formation; and [2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF).]

B. Solely for purposes of applying section 1541, the limited liability company's articles of organization operate as a statement of authority filed pursuant to section 1542. For this purpose, the designation of the company's management structure in the articles of organization must be treated as a statement described in section 1542, subsection 1, paragraph C and the statement of the name of the limited liability company must be treated as satisfying the requirement under section 1542, subsection 1, paragraph A. [2011, c. 113, Pt. A, §32 (AMD).]

[2011, c. 113, Pt. A, §32 (AMD).]

**3. Foreign limited liability company.** This chapter applies to each foreign limited liability company that does not have a certificate of authority in effect on July 1, 2011. Former chapter 13 applies to each foreign limited liability company with a valid application of authority to do business in this State in effect on July 1, 2011 until the due date of the first annual report required to be filed by that foreign limited

liability company on or after July 1, 2011, after which due date this chapter applies to that foreign limited liability company, and such application for authority to do business in this State, for purposes of this chapter, constitutes a statement of foreign qualification.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**4. Certain assignments.** The provisions of section 1507, subsection 5 do not apply to a security interest with an effective date before July 1, 2011.

[ 2009, c. 629, Pt. A, §2 (NEW); 2009, c. 629, Pt. A, §3 (AFF) .]

**5. Administrative dissolution prior to effective date.** A limited liability company administratively dissolved under former chapter 13 is deemed to have been administratively dissolved under section 1592 for purposes of reinstatement following administrative dissolution under section 1593.

[ 2011, c. 113, Pt. A, §33 (AMD) .]

#### SECTION HISTORY

2009, c. 629, Pt. A, §2 (NEW). 2009, c. 629, Pt. A, §3 (AFF). 2011, c. 113, Pt. A, §§32, 33 (AMD).

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